

Town of Superior
Regular Council Meeting
Thursday, May 17, 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 7:28 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, Gilbert Aguilar, Mayor Jayme Valenzuela and Vice Mayor Olga Lopez (left at 11:14 p.m. before executive session); **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 38-0431.01(A)(2), on any item listed on the agenda.

E. CONSENT AGENDA

1. Approval of Minutes for Regular Meeting of May 3, 2012
2. Approval of Minutes for Executive Meeting of May 3, 2012

Interim Town Clerk Rita Wentzel said the council will need to take some time to read the executive meeting minutes before they approve them. They are secret and would be collected after the vote. If they had a question, they could feel free to recess and go into executive session to discuss.

MOTION: Council Member Tomerlin moved to approve the minutes for the regular meeting of May 3, 2012 and the Executive Meeting of May 3, 2012. Vice Mayor Lopez seconded.

VOTE: The motion passed unanimously.

F. REPORTS

Fire Department: Fire Operations Chief Todd Pryor reported that the hydrant test had shown improvement since the last test. He said they are seeking approval for the TB skin test to be

done in-house. He also reported on planned confined space entry training and gave vehicle and code enforcement updates. Mr. Gutierrez commented on the hydrant map and said he appreciated it as it was very professional. Chief Pryor said it was something he had put together.

Police: Police Chief Lou Digirolamo presented the monthly report. He pointed out a couple of spikes in assaults and thefts. Most of the assaults are not stranger assaults. They had a rash of domestic violence assaults and per state statutes those arrests have to be made. The number of arrests went up due to the number of assaults. Mr. Gutierrez asked about the thefts going up. Chief Digirolamo said that is month to month; with the annual report they would be able to compare three years. He updated on a case where two people from out of state had come down to attend a party in Superior. When in the house they were confronted by two suspects who had weapons. One victim was in Scottsdale Memorial with non-life-threatening injuries. The other victim they couldn't find for two or three days; he came into the police department to let them know he was okay. They were asking the public if they had information to call the police. Also, he said the personnel issue is the same as the last time he reported. One officer is still on medical leave and one on civil leave.

Public Works Department: Public Works Director Jed Lant reported on team goals and activities of public works. Re individual goals he passed his state exam for Wastewater Collections 1 with 89 percent and will soon do Wastewater Treatment 2. Also, on May 10, Planning and Zoning reviewed and approved Outdoor Lighting, Wireless Communications and Sign Provisions and the next session will be review of Article 18, Nonconforming Uses. Re the wastewater treatment plant, one contractor came to the pre-bid conference and they walked the site. They are now waiting for a sealed bid due May 18. Public Works man hours for building maintenance were 260, for cemetery 78, for ACO 36, for park maintenance 30, for pool nine and for safety seven. He also reported on the Regional Transportation Plan meeting, the Transportation Technical Advisory Committee and the Pinal County Directors meeting. Mr. Gutierrez asked Mr. Lant to expand on the P&Z review of nonconforming uses. Mr. Lant said they are reviewing each article and in a sense rewriting. At the end of the review, they will edit it and send out a draft for the council to approve. Mr. Gutierrez asked for an example of nonconforming. Mr. Lant said a nonconforming use will be somewhat on the lines of grandfathered. Mayor Valenzuela asked if any of the certificate opportunities such as Mr. Lant had gotten were afforded to the rest of the street crew. Mr. Lant said recently the opportunities he has been taking have been paid for out of his pocket. He discussed that they do offer training. A lot of this has to be self-motivating. Mr. Gutierrez asked from a hypothetical standpoint if Mr. Lant was to offer an opportunity to his staff, in a staff of 10, out of 10 opportunities he would offer, how many of those 10 are really open to engage in self-improvement. Mr. Aguilar asked if it has really been offered and Mr. Lant said yes and named the trainings offered. He said a lot of it is self-motivating. Mr. Gutierrez asked if he was saying that he has offered but they have not taken it. Mr. Lant said, "To a point, yes." Mr. Tameron said there were seven man hours in safety. What did he mean by safety? Mr. Lant detailed general safety checks they do. Mr. Aguilar asked if it was documented. Mr. Lant said yes, in binders that are color coded and in the office.

Library: Library Director Josie Campos presented the library report including monthly circulation and revenue stats and average number of people per day. She listed library activities. They have been working on routine duties, providing quality customer service, circulation and desk duties, ongoing training, processing new items, revising the library policy that will then be brought to council for approval, weeding out old items and preparing for the next book sale. She reported on upcoming projects such as the summer reading program and more.

Senior Center: Ms. Wentzel said she did not ask new Senior Center Director Debby Casillas to come to the meeting as she is still training her. Due to a situation they did not get their report done in time for council. She had to commend her. Last week due to staff vacation days and a person being ill, the brand new hire Ms. Casillas was the only person at the senior center. She stepped up, got her volunteers in there, got a volunteer driver, got Charles from Public Works, and operated flawlessly for two days. Nobody even knew there was a problem.

Recreation: Ms. Wentzel said that Ms. Barbara Arriola wanted to give an oral report. She called in ill and would not be there. Zumba on Mondays had been cancelled so they would be having Zumba on Wednesdays and the recreation program on Fridays and Saturdays from 3 to 7 p.m.

Finance: Ms. Wentzel reported on the finances, including accounts receivables, which went up by a smaller amount this month than last month. Last month they were \$230,234 and this month they were \$243,000. They are working on collections policy and procedures. It is Chris Wencker and herself now and then they will bring in two members of council and bring a recommendation. Re accounts payable, they have a few bills outstanding for months prior to April. They have been paid down from \$84,000 in outstanding to \$70,567. That is not to say they are out of the woods. She discussed fund details and other aspects of the finance report.

G. COMMUNICATION

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

4th of July Fireworks Display—Fireworks Productions of Arizona: Ms. Wentzel referenced a flyer in their packets re the fireworks that will take place July 4. This is a more extensive package this year as they have a \$3,200 credit from last year's rained-out fireworks. They had anticipated shooting them off of the Resolution Copper tailings but it was not possible.

Change to Bulky Item Collection Days, effective June 1, 2012: Ms. Wentzel said due to the fact the transfer station is closed, they are accumulating a lot of trash. She has spoken to Republic Services. Their recommendation is to change Superior's bulky item collection method. Pickup is from homes and businesses on the north side of U.S. 60 on the 1st Wednesday of the month and on the south side of U.S. 60 on the 3rd Wednesday. People are still going to be required to call in and give their address if they want a special collection; however, Republic Services will drive up and down each street to ensure refuse is cleared off the streets.

Request for Extension from the Auditor General's Office—Pinal County Transportation Excise Tax Audit: Ms. Wentzel said Mr. Chris Wencker has requested an extension from the Auditor General's Office. They do not know what the response is. The auditor is coming in on Tuesday and Wednesday of next week and hopefully they can make progress. Mr. Gutierrez asked a question regarding the meaning of a statement in the letter by Mr. Wencker. It said they had not found any material mistakes. Ms. Wentzel said they had taken the time to go through the last five years of accounts payable. They found that the number of miscoded items and the dollar amounts are probably not material enough to bring to their attention. Ms. Gutierrez said there was a lot of interpretation going around about misappropriation of funds. Is that what this is addressing? It sounded to him that this is more incidental than it is a major component. Mayor Valenzuela said that Mr. Gutierrez may

be reversed in his thinking. Ms. Wentzel is explaining that \$50,000 of what was found is nothing compared to the \$1.5 million that was misappropriated. Mr. Gutierrez asked if she was saying that there was still \$1.5 million that has been misappropriated. Ms. Wentzel said they believe that is true. Mr. Gutierrez asked if she was saying that hasn't been substantiated. Ms. Wentzel said that has been substantiated. What the town asked for was the opportunity to go back through their records because they believe there was not any misappropriation of funds, only miscoding of funds. She explained how the auditors had not found any miscoding. In this audit they are going to scrutinize the HURF funding so that is a second look at it, not just staff. Mr. Aguilar asked if the reason they want to find miscoding is so they can get more money. Ms. Wentzel said that was correct, to reduce the deficit.

House Bill 2264—reversion of the ASRS contribution rate back to an equal 50/50 split between members and employers: Ms. Wentzel referenced House Bill 2264 that passed and was signed by the Governor on May 7 and was effective immediately. Ms. Wentzel said the employee had paid 53 percent of their contribution to ASRS and the town had paid 47 percent. Now they would go back to 50 percent and that decision was retroactive to July 1, 2011. Ms. Wentzel had contacted Nicole Welty to see if she could give them a little bit of time as she is still on staff. She came on Tuesday. She did a lot of research and worked directly with Arizona State Retirement. The good news is that 28 employees needed a refund but only \$2,552 was the total refund. They immediately cut those checks so they could show they wanted to make the employees whole. The council may remember that the 3 percent raise they committed to last year was to compensate them for additional money contributed to Arizona State Retirement, so it is a plus for the employees.

Check Presentation by Pinal County Sheriff Paul Babeu: Ms. Wentzel said that today they had a very basic summer program. They have the pool open and the 4th of July celebration because of budget cuts and limited cash flow. Mayor Valenzuela asked her to write to Sheriff Babeu and ask for RICO funds. Sheriff Babeu was there to present a check to help the Town of Superior have a summer recreation program this year.

Sheriff Babeu explained how he was proud of all of their deputies, detention officers and staff in the Sheriff's Office. They have close to 700 full-time employees who work throughout the county (some in Superior) and do a fantastic job. They had a historic drug bust, not just for Pinal County, but for the entire state of Arizona, that occurred in Pinal County. They had a number of law enforcement agencies throughout Pinal County, including their federal partners ICE and the Border Patrol. They smashed a branch of the Sinaloa Cartel and arrested 76 individuals. Six of them are key members of the Sinaloa Cartel from Mexico. They confiscated 108 weapons. These were not regular handguns. These are scope rifles, AK-47s. Two of these were from Fast and Furious, which they now know is a program through ATF, Department of Justice, that facilitated in Arizona through strong purchasers high powered weapons into the hands of the drug cartel that not only they are fighting but their good neighbor to the south, Mexico, is fighting and that has resulted in 50,000+ people being killed in Mexico over the last four years. Two of these weapons were from Fast and Furious that were brought back from Mexico into Pinal County, into Arizona, for the commission of serious felonies. The Sheriff's Office, their deputies and a lot of their partners have brought enforcement against these criminals who think that they can come into Pinal County. They put up a good fight against them and this is part of the historic bust of \$2-3 billion over four years that they have trafficked through the county. They didn't get that in cash but that is the amount.

He said this is the substantial fight they are in. Just the previous day two more vehicles were apprehended. One of them was stolen from the family in Phoenix. They have two helicopters in the Sheriff's Office. One was paid for by the Governor and legislature and the other they got for free from the federal government. They sighted in on a lookout and landed and the guys had already left. There were three sleeping bags, they had all kinds of food there and supplies and they were the lookouts for the cartel.

He said they are still fighting this day in and day out. When they arrest these bad guys, they take their drugs and get it off the streets. They put them in jail, seize their cash and take their cars. They just auctioned off another 130 vehicles from the drug seizures that they send up for auction and they keep the money. They purchase ballistic vests, buy radios, helmets for motorcycle deputies, motorcycles and other items. They also have partners in the community: The Boys & Girls Club, the YMCA, battered women's shelters. They opened a brand new substation in San Tan Valley. For the past 2.5 years they paid close to \$300,000 for the entire lease facility, not one dollar from taxpayers' money. So they are not only saving money, but this is one part of the job: they take money from criminals and use it for a lawful purpose and in this case, for a youth program to keep kids out of trouble and have something good and positive for them to do.

So they want to partner with the town and have them share in the success of bringing the heavy hand of enforcement against criminals. It is not only making their community safer but who says crime doesn't pay. They are making it pay in this regard, making the criminals pay and then taking their money and putting it to good use. He asked Rita Wentzel to come up and he wanted to present to the Town of Superior a check for \$5,000 so they can have some seed money for the youth this summer. Any commitment they have made in past years they have always matched it and in fact have increased the funding. This is a commitment and they are happy to partner with them. He presented the check and there was applause. The mayor said thank you and the council had a chance to see the check.

H. CALL TO THE PUBLIC

John Diaz: Asked about his status as a cardholder for medical marijuana. Mayor Valenzuela said there would be a presentation and Mr. Diaz would be able to get some information from that.

Elizabeth Magallanez: Said on behalf of Resolution Copper that though they unfortunately are unable to allow access for fireworks to be shot off the tailings due to safety and possible risk, they will assist the town in any way they can to ensure they have a full 4th of July celebration.

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

1. Presentation: Representatives from Superior Organics—an Arizona Non-Profit Corporation—will provide input on their proposed Medical Marijuana Program.

Mr. Travis Pollock gave a packet to council. He said he was co-owner of Superior Organics, an Arizona nonprofit entity established to open a medical marijuana facility in Superior, and a former dispensary owner of two facilities in Durango and Cortez in Colorado, which are similar to communities such as Superior. He has been working with the town for the past year and even reached out to community members. Last year they made a presentation to

the Chamber of Commerce. They have been negotiating with possible landlords on buildings and continuing to follow-up with the Town of Superior to see if they have a medical marijuana ordinance drafted so they could meet all the possible zoning restrictions. Until recently there have been none. Superior Organics has obtained a building at 631 Highway 60, zoned C-2 and intended for mixed use medical marijuana dispensary and cultivation.

He said Arizona Revised Statutes 36-2806.01 states that cities, towns and counties may enact reasonable zoning regulations to limit the use of land for registered nonprofit medical marijuana dispensaries. The most important factor is that communities may enact "reasonable" zoning regulations. Referring them to the packets and a map provided by the town, he discussed the limited areas in the town a medical marijuana facility could operate.

The town of Superior is 1.9 square miles, he said. "Within those 1.9 square miles there are 2,310.4 acres. If you took out all the industrial property, which is not useable, the water tower, which is not useable, and the vacant land south on I-60, then you are left with these parcels in Zone 2. The Zone 2 parcels total 3.56 acres and this total could actually be smaller because there are four properties that might not meet the residential zoning restrictions," he said. "These Zone 2 properties total .15 percent of available land for medical marijuana use for the town of Superior. That's a fraction of 1 percent."

He said the City of Phoenix restructured their zoning restrictions in their ordinance from 500 feet to 250 feet. Phoenix decided they must provide at least 10 percent for this use and others to meet the requirement of reasonable zoning regulations. He said the City of Show Low removed the residential restrictions. Yavapai County made the medical marijuana facilities "be right" so they are allowed to operate just the same as any other retail business.

He said in a town such as Superior where there are only 1.9 square miles, it is very difficult to get a spatial distance from residential and commercial properties. He discussed this further and asked the council and Town Attorney Chad Niven if the current zoning ordinance proposal was reasonable and what kind of liability that put the town in.

He said the current building they are committed to does not meet the residential setbacks. It was chosen because it can accommodate both uses of cultivating and dispensing medicine and meet the operating requirements of Arizona Department of Health Services. He referred them to their packets and discussed the intense and conclusive requirements. If they have a good operator, such as they will be, and a transparent relationship between the police, sheriff's office, community officials and constituents there will be no issue with this use.

He recommended that instead of rushing, the council more accurately address these issues in the proposed ordinance. The previous week when they proposed these issues to the Planning & Zoning Commission, two of the five members voted no on the ordinance because they thought it was too restrictive.

Mr. Pollock said they as a council had been chosen to make tough decisions for their community and now is the time to make the correct one. He asked them to listen to the concerns of their commissioners and community members and look clearly at the proposed ordinance. He asked them to exclude the residential setback.

2. PUBLIC HEARING—VA-2012-0401, Variance Request, Sign Size and Height for Superior Unified School District

Ms. Wentzel said it was time for the public hearing for the town council acting as the Board of Adjustments to hear input on referenced items. They would recess the meeting and make a motion to go into the public hearing.

MOTION: Council Member Tomerlin moved to recess the council meeting and move into the Public Hearing. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously.

Ms. Wentzel said Superior School Superintendent Pete Guzman and Mr. Ignacio Godinez of Superior Schools' Maintenance & Operations were there to answer questions. Notices were sent to all affected property owners regarding the process and meeting dates for issues related to the installation of the new marquee at the Superior Schools. The Notice of Public Hearing was published two consecutive weeks in The Superior Sun newspaper.

Mayor Valenzuela asked if there were any questions or comments from the public. He asked Mr. Guzman if he had anything to add. Mr. Fred Miramon came to the podium and asked if they were talking about the signage at the school or medical marijuana. The mayor said the sign. Mr. Miramon sat down.

Mr. Gutierrez asked Mr. Guzman to come up and give an overview. Mr. Guzman came to the podium and asked Mr. Gutierrez to be more specific. Mr. Gutierrez said everyone had made the assumption there was all the permitting and it turned out it wasn't. Why was there a discrepancy between what was required and how the school proceeded initially? Mr. Guzman said it derived from a grant they had received to help their school be more energy efficient. The marquee was one of the projects.

He said he thought they were there now because of miscommunication on the process. He was there to resolve it and move on. It is a nice marquee. Mr. Gutierrez said there may have been concerns of the engineering and code requirements. The mayor said he thought they discussed that at the last meeting and everyone up there got the information that the signage did meet all the requirements and did meet all the specs. Mr. Guzman said extensive documentation was sent to the county and the county did sign off on it.

Mr. Gutierrez said going forward when the school is building is it required to come back to the town? Mr. Guzman said he thought that was one of the miscommunications he is talking about. It was before his time. His understanding was they didn't need a permit because they were a school. Mayor Valenzuela said that the way he answered the question was that: "We have made an agreement and we have spoken with Ms. Wentzel and we have agreed that in the future all permitting will go through the city. Correct?" Mr. Guzman said that is correct.

Mr. Godinez commented on what the contractor had said. Mayor Valenzuela said that was fine. It has now gone through Ms. Wentzel. All miscommunication is in the past and they are moving forward and all communications will go through Town Hall and all signage and business permits will go through the town.

Mr. Godinez came to the mike and asked for information regarding future projects. The mayor referred him to Mr. Lant as it was not on the agenda for current discussion.

Mr. Tomerlin asked Mr. Guzman if the sign was completely safe. Mr. Guzman said it was. Mr. Tomerlin said that worked for him.

Ms. Wentzel said they could adjourn the Public Hearing and move to Item #4 in the interest of expediency and then return to Item #3.

MOTION: Vice Mayor Lopez moved to adjourn the Public Hearing. Council Member Tomerlin seconded. **VOTE:** The motion passed unanimously.

For expediency purposes, Ms. Wentzel suggested that the Council move Agenda Item #4 prior to Agenda Item #3 to allow for the school officials to participate in the decision before it was necessary for them to leave.

3. PUBLIC HEARING—Ordinance #113, Medical Marijuana Model Ordinance for Town of Superior

MOTION: Council Member Tomerlin made a motion to move into a public hearing regarding Ordinance #113, Medical Marijuana Model Ordinance for Town of Superior. Council Member Aguilar seconded. **VOTE:** The motion passed unanimously.

Attorney Wencker called the council's attention to the emergency clause in the ordinance. Five members of the council including the mayor would have to vote affirmatively for the emergency clause to be effective. The purpose of this is that the ordinance would be effective immediately instead of having to wait 30 days. Secondly, he said the proposed ordinance did go before the Planning & Zoning Commission as it is required because it is an amendment to the zoning code. The P&Z recommended approval.

Elizabeth Magallanez: Had questions as far as her position as chairman of the Superior Substance Abuse Coalition. They have many issues in Superior and substance abuse is definitely one of them. There is a potential for abuse. Her question to all of them is whether they were all aware of what the state law is regarding legal marijuana and the dispensaries and where they can be located, the amount the qualifying patients can have.

Attorney Wencker recommended to council that they not answer that question directly. The purpose of a public hearing is to receive information not speak back and forth with the public.

Ms. Magallanez said that was no problem. She had information to present. She said their organization provides educational materials on prevention. She had printed off things that they use. She would not go through all of them but would go through one that came from the National Institute of Drug Abuse. The document she read from and discussed said that a 1999 Institute of Medicine report concluded that further research on cannabinoid drugs and state delivery systems was warranted but that marijuana itself was an unlikely medication candidate for several reasons, that it is unpurified and contains several chemicals with unknown health effects, that it is consumed by smoking, further contributing to potential adverse effects, and that its cognitive impairing effects may limit its utility, components for specific conditions or symptoms with improved risk/benefits profile. Scientists are actively engaged in this pursuit and hope to bring to market a new generation of safe and effective

medications that avoid the adverse effects of smoked marijuana. She said their coalition and other coalitions next week would be meeting to discuss the abuse of prescription drugs but just because something is legal doesn't mean it doesn't have the potential for abuse. She asked them to familiarize themselves with this.

Steve Shapiro: Stated he was from Scottsdale. He wanted to address information presented by the previous speaker. All that information is on the azdhs.gov web site if they wish to see any laws, requirements, etc. The only requirement by the state law is it has to be 500 feet from a school. They left the other zoning issues to the municipalities. The amount that any patient carries at one time is 2.5 ounces. The study cited was by NIDA, which is the National Institute of Drug Abuse. It will not do a study on the positive effects of any drug. There are doctors currently in AZ using medical marijuana to get people off prescriptions drugs, to get them off methamphetamine, to get them off heroine. It is a much safer option. He presented information on specific diseases treated by medical marijuana and said he wanted the community to understand there are positive effects to this medicine.

Travis Pollock: Presented information regarding the status of his company's application with the Arizona Department of Health Services. He requested the council to make a motion to remove the residential setback and revisit the proposed ordinance. He explained what his operation would have to do if the setback remained and discussed the process and the 10-month grace period. He recommended they take a deep look at the ordinance and harness the energy this use is going to provide the community. It is going to provide tax money and additional security for this use above and beyond what is currently going on in the black market. This use is beneficial to patients.

Council Member Tameron asked either of the town attorneys what happens if they have to move to another location. Would the whole process have to start all over again? What would the process be of moving from one location to another? Attorney Wencker referred them to the application in their packets. It is like an alcohol permit. The short answer is they would have to submit another application.

Mayor Valenzuela asked if that was what Mr. Pollock had talked about, the 10-month grace period. Mr. Pollock responded and discussed the steps in the process to be able to submit to the Arizona Department of Health Services. When the license is awarded there is a 10-month grace period to allow the business to begin operations. If they do not start operations within 10 months, the license can be revoked at 60 days before its expiration. At that time within the first year, the operator has the option to move the license within their CHAA (Community Health Analysis Area) within 10 months. They have the option to move that license to another CHAA after three years if they demonstrate a need and use to where they are moving it. They feel comfortable submitting to Arizona Department of Health Services with the application they have. They would like to stay in the location. If the residential setback doesn't get excluded that evening or if the council doesn't revisit and redraft the ordinance, there is a possibility they would submit on 631 Hwy 60 wholly to gain the license and then within 10 months find a new location to operate.

He said due to the fact that their ordinance is so restrictive, it is limited to actually be able to find a new location. He cited 36-2806.01, Chapter 28.1 of Arizona Revised Statutes regarding reasonable zoning restrictions. He said the current proposed ordinance is not reasonable because they do not have enough land mass to actually be able to allow this use.

Attorney Wencker asked if he had answered the question and Mr. Tameron said yes. Mr. Gutierrez asked the attorney to repeat what he had just said. Attorney Wencker said it is similar to a liquor license. It applies both to people running the operation as well as the location. They can apply for another location and will not have to re-qualify. Mr. Pollack said it is a change of address not a new application.

Mr. Gutierrez asked if other than the setbacks, does 631 meet all the requirements? Attorney Niven said they are not sure but don't believe it does. He believes it is too close to a place of worship and too close to a residentially zoned property. Mr. Pollock said it does meet the church setbacks and cited a new map the town has provided.

Mr. Gutierrez asked if the Sheriff had anything to add. The Sheriff deferred to the Town's Police Chief. Police Chief Lou Digirolamo said the police enforce the law per the legislature and whatever this body decided upon as an ordinance. They take a neutral stance other than enforcing the spirit and letter of the law.

Sheriff Paul Babeu: All 15 sheriffs opposed this when on the ballot. They have since tried to work with the governments. With DHS they tried to improve the rule making so their concerns were listed and addressed. There were specific concerns they had. Many people look at it as a gateway drug and less dangerous than a lot of the other narcotics and even prescribed drugs. Prescription drugs are probably a larger epidemic. Their marijuana concerns including impairment. He cited zero tolerance, if you are impaired under the law when driving you will be arrested. This is now the law. What they want to do is educate and put the safeguards in. He made further comments and responded to council questions.

Jed Lant: Said 631 does not apply to the zoning map. It is C-2. There was further discussion and Mr. Lant answered council questions. Fire Operations Chief Todd Pryor also commented.

Mr. Tameron asked Attorney Niven about the setback and Attorney Niven responded. Attorney Wencker also responded clarifying what the proposed ordinance said.

Attorney Wencker discussed the topic of the reasonableness of the zoning restrictions. He said there is no bright line he can give them. It is up to the council. They are the only ones with authority there to decide what is reasonable. Then if they were to face litigation, it is up to the court to decide. Attorney Niven said he believed as it currently stands, it is reasonable.

Mr. Tameron said, "It is."

Attorney Niven discussed the uniqueness of Superior in that there was not a lot of land for purely commercial zoning. Another part of the ordinance that he drafted was the Town Center itself. It seemed to him as it stands, a medical marijuana facility doesn't necessarily fit into the wording or the description of the current zoning ordinance. The Town Center is kind of a specialty retail center. He would argue that a pharmacy type use would not fit into the Town Center. In the proposed ordinance, Planning & Zoning has voted not to have this in the Town Center but that is something the council can consider. Also there are other tools such as a variance. They can apply for a variance if they have issues with the setback.

Mr. Gutierrez commented on the prudence of considering a variance versus zoning ordinance change. He asked Mr. Bill Vogler of the Planning & Zoning Commission if the commission had taken that into consideration.

Bill Vogler: Said that was his idea. You can ask for a variance. If you take away 100-foot you can then basically ask for anyplace that you want to put it within that 100 feet. With no limitation you can put it next to a house full of kids and you have no say in it. That is why they felt 100 feet was reasonable, because at that point you can request your variance based on the conditions on that particular spot, not the whole town. He said that was his reasoning and discussed the vote. One of them wanted to put it in Town Center. Mr. Vogler said his reason, though, for not wanting to put it in Town Center was it is an historic area. He did not want to see that part of the town go away. He said their job was to create an ordinance, not to create an ordinance for somebody. They do what they feel is right for the town and that is what they did.

Attorney Niven recommended that council not table this as the application process closes after May 25. He further discussed this and the boxes on the form regarding whether the application meets zoning ordinances. He can't say, "Well, we're working on it." You risk having no ordinance whatsoever for the state department to consider. They did put an emergency clause on it. The council can consider 50 feet or put a 200-foot restriction on it, although he would not advise it as you risk getting into unreasonable areas. Other aspects that are important: They have a property size limitation in there to see that a dispensary or manufactory doesn't get too big. There are also certain specific regulations they put in where the town has its own regulations over the facility. The state does put requirements on the facilities. They do a good job. A lot of these laws are state enforced. They put other restrictions such as the time restriction.

Council Member Tomerlin asked the attorneys if they were to amend the ordinance, would it have to go back to P&Z or could they pass it now. Attorney Wencker said they could make changes to the ordinance and approve.

Attorney Wencker also clarified the definition of a variance and said it could not be used to allow a medical marijuana dispensary in a zone where it is not allowed. It could be used regarding setback requirements.

Council Member Gutierrez said if they change the setbacks it might open the door for other things that aren't reasonable. They are right on a line. It is open to interpretation. When others apply they will be looking at the topology of the community.

Travis Pollock: Said he did not want to be blunt but had never met a council where their attorney had misguided them so much. Right now this restriction is unreasonable. If they couldn't see that .15 percent of actual usable space would not be able to be contested in a court of law, then he thinks the board needed to reflect on what the ordinance states. Right now there is no case law establishing what is reasonable and that is why the City of Phoenix established 10 percent of their area for uses like this and others. He said as Mr. Wencker had stated, they needed to treat this use like any other. He also discussed the time frame and that they did not need to feel pressured to pass the ordinance. He said he wanted them to be aware that the restriction in the proposed zoning law is unreasonable.

Sonnie Sansom: Asked if they really want this business. Do they have to have this business in the town? Why are they changing their planning and zoning for a business they don't need or want?

Steve Shapiro: Said no other business has had to face this kind of scrutiny, not even drugstores or liquor stores are required to go through this type of zoning. There are a lot of false concerns about this business. Six months ago there was a study by the Rand Group about the effects of a dispensary moving into a neighborhood and moving out. They were expecting to find when a dispensary went in the neighborhood went down and went up when it moved out. They were surprised to find that the exact opposite. Let the sheriff focus his efforts on much more serious crime. That is not for him to decide. But what this can do for their community is take some of that black market off. Someone mentioned also that it is a gateway drug. He would argue that it is not. The only way that it could be a gateway drug is that the people who were using it use the same people to get other drugs. Their dispensary will not have any other drugs. Regarding the Town Center and nostalgia, until the 1930s this was a very legal drug used in every doctor's kit. Around the turn of the century if you went in a pharmacy there would be cannabis. There was a tincture, there were other forms. It has been around for thousands and thousands of years. They really shouldn't fear what is coming into their community. Based on security, their area will be one of the safest.

Leslie Martin: Said she grew up in the 60s. Marijuana was kind of a lifestyle in northern Vermont at that time. She didn't have any preconceived thoughts about this. But she does know that many of them had been working very, very hard to build up the image of this town. She is concerned. She is cautious about it. It is really up to them, but she is concerned.

Sue Anderson: Just a quick question to follow up on Sonnie's question. Is there a law that says they have to have a dispensary there?

Mr. Pollock and Mr. Shapiro made a number of responses to Ms. Anderson. Mayor Valenzuela asked either of the attorneys to give an explanation of the law. The response was that it was simple; they can't discriminate against this establishment. Mr. Gutierrez said you can't discriminate against the zoning, was that what they were saying? Attorney Niven said that was right. Mr. Tameron asked Mr. Pollack and Mr. Shapiro why they chose Superior. Mr. Pollock said they chose Superior because originally they started working in the White Mountains and they do a lot of recreational sports in the White Mountains and come through this area quite a bit. Due to certain things, they decided to focus their attention on Superior. This isn't something that is brand-new. They have been working in this community since last year after the passing of Prop 203, so they are not just jumping on the bandwagon. They have had an interest in this community for the past year.

Greg Crouse, Arizona Compassion Center, Inc.: Said he had a 7-year-old. He is not opposed in any way to having a dispensary. He would be opposed to having his son play in the back yard next to a spot that is growing marijuana and dispensing it. He holds a card himself but he could throw a grapefruit 100 feet. It is not very far.

Travis Pollock: These gentlemen are submitting an application. He does not want them to be persuaded by other applicants. He thinks that for him this restriction needs to be removed, but it needs to be removed for everybody else who wants to submit here.

Mr. Tameron asked Ms. Wentzel if they had other applicants. Ms. Wentzel said they had one other applicant that has come in and requested the town approve their initial application. That is Mr. Paul Shaub, who is looking at Dr. Wilt's property. But there have been questions and phone calls from others.

Kyle Mills: Said they were also the third company interested in a medical marijuana dispensary in Superior. Their building meets all criteria. Rules and regulations are drawn up for a purpose, not made to be changed. They are made to separate this from residential, churches and everything else. Rules are rules. He thought the council was doing the right thing and that rules were set. Mr. Gutierrez asked if he was a resident. Mr. Mills said he was a resident, not of Superior but of Arizona. Mr. Tameron asked if he had said he has a location there. Mr. Mills said at this time, no.

Mr. Gutierrez asked if they could talk about that. Attorney Wencker said that in so far as it informs the council's decision, with some restrictions, any issue should be fair game. He would say, no, any other particular location is not on the agenda. The availability of locations he thinks is okay. The mayor asked if it was listed for an executive session. Attorney Wencker said no.

The mayor said if they take no action on the item, they are still going to apply for their permits, right? Attorney Wencker said if they take no action they are giving up the opportunity to enact zoning regulations on this particular usage. Down the road they can, but if down the road there are any existing businesses in the town and the zoning is amended at that point, it poses a hardship on these people and there could be a legal dispute. Mayor Valenzuela said there could be a legal dispute but not what he is saying right now that they could be in noncompliance and subject to a lawsuit if they moved forward right now. But if they didn't, they would be more at risk then.

Attorney Wencker said that without getting too far into advice he would prefer to give in executive session, the mayor kind of had the gist of it. Anybody can sue anybody for anything at any time. He would say they would be more likely to face a lawsuit the more they delay this decision. If they make no decision they kind of go in and operate their business and the town has given up the right to regulate where that is going to be and the length of distance. Mayor Valenzuela asked if it passed that night with the 100 feet, they can come back later and change that? Attorney Wencker said they can always change the zoning ordinance. They would have to go through the entire process again. Mayor Valenzuela said they could expand it to past 100 feet if they wanted. Attorney Wencker said they could do that later on down the road or tonight.

Travis Pollock: Wanted to make a clarification that if they take no action on the ordinance that night, they will have time to come back and address this. He reviewed the time frame with the final date of August 7, when everyone will know who is awarded the license. That doesn't mean that they open up right away. He further discussed the time frame of going to the local community and getting a license from them. This council had time with the current time frame to not vote on it this evening and come back, re-adapt it and still pass it before anyone is awarded the license in the community.

Council Member Aguilar asked the attorneys if that were true. Attorney Wencker said that as he had said, if they do not pass an ordinance at this point in time, they have given up the opportunity to regulate. They can adapt it later on; that is absolutely true. It is just that the more they put off making the decision, the more likely they are to face a legal challenge. He further explained the details of this point to the council.

The mayor asked Mr. Lant about the exact distances to the home owners. Mr. Lant said he had made a mistake in saying it was C-2. He apologized for the information he gave earlier. He had something else to say. He knows it is a lot for council to take in on one night. It is really overwhelming. P&Z has been working on this issue for six to seven weeks and has put a lot of thought in it. He said let's consider planning and zoning's recommendation and the ordinance they have brought forward to them. The mayor asked again: what are the distances from that building to the existing property owners? Mr. Lant said he couldn't answer that now. He would have to research it. Attorney Niven said they were talking about spot zoning now and let's stop that. Mr. Gutierrez said this is just the beginning. This is what they will have to deal with.

Attorney Niven suggested adjourning the public meeting. There was further discussion in the room. Mr. Pollock asked that they please do not put their municipality in a position of liability; take out the residential zoning restrictions. He again said they had time to work on it before anyone will ever get a license.

Mayor Valenzuela: Said he had a comment. He did not take kindly to threats (applause). Yes, they have bought a business. They have bought a piece of property in the community. Right now they don't meet the setbacks; they do not meet the requirements, in his opinion. He feels the Planning & Zoning has worked hard. He gave his due to the facility applicants. But as Mr. Sansom has brought up, there are rules and guidelines. He said they keep threatening him with a lawsuit. He doesn't know yet. He is torn. But there are rules they have to follow. His only other comment was he doesn't take kindly to threats.

Council Member Tomerlin: Said he had a comment. There are people from the outside who want to come in and open a business here in town. That is all fine and dandy. He does not have the responsibility. He has a responsibility to the residents of Superior to make his decisions based on that and that is how he is going to make his decision. On a personal note, he'd like to have a dispensary in Superior or at least near enough within the requirements, because there are mileage requirements, for the simple fact that then people can't grow plants in their backyard. That just opens up the black market all the more. He thinks the restrictions in the ordinance, if it passes or if it doesn't pass, are reasonable.

MOTION: Council Member Tomerlin moved to adjourn the public hearing. Council Member Tameron seconded. **VOTE:** The motion passed unanimously.

4. Discuss/Approve/Reject: VA-2012-0401, Variance Request, Sign Size and Height for the Superior Unified School District.

MOTION: Council Member Tomerlin moved to move into the Board of Adjustments. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously.

Ms. Wentzel said there is a staff report attached. She wanted to comment that Pinal County did look at the sign, pictures and specifications supplied by the contractor. They had a minor change to the electrical but otherwise they feel structurally the sign is adequate and meets all the requirements if they have gotten the permit. The recommendation is that the Town Council, acting as the Town of Superior Board of Adjustments, grant the variance application VA-2012-0401, a request to allow a 42.16 square foot sign where 12 square feet is allowed and to allow a 13.5 foot high sign where a height of 5 feet is allowed in the R1-190 zoning district based on the findings in the staff report and the justifications provided by the applicant on page two of the application. Mr. Richard Turner, AICP, from Willdan, who wrote the staff report, is available to answer any questions, as is she and Mr. Chad Niven, their town attorney who handled this with planning and zoning.

Mr. Turner came to the mike to answer any questions. Mr. Gutierrez explained his concern re safety and said Mr. Turner was the only one who was an engineer. Mr. Turner said he was not an engineer. He was a planner. He was not able to address that but believed Ms. Wentzel had indicated that Pinal County had reviewed it and passed it.

MOTION: Council Member Tomerlin moved to grant variance application VA-2012-0401 to allow a 42.16 square foot sign where 12 square feet is allowed and to allow a 13.5 foot high sign where a height of 5 feet is allowed in the R1-190 zoning district based on the findings in the staff report and the justifications provided by the applicant on page two of the application. Council Member Aguilar seconded. **VOTE:** The motion passed unanimously.

MOTION: Council Member Tomerlin moved to adjourn the Board of Adjustments. Council Member Tameron seconded. **VOTE:** The motion passed unanimously.

5. Discuss/Approve/Reject: Resolution #535, Medical Marijuana Model Ordinance for Town of Superior

MOTION: Council Member Tameron moved to reconvene into regular session. Council Member Tomerlin seconded. **VOTE:** The motion passed unanimously.

Ms. Wentzel said the Superior Planning & Zoning Commission, at their May 10, 2012 meeting, adopted a Zoning Code setting forth the permitted property uses within the Town of Superior, Arizona, and adopting the entitled "Medical Marijuana Model Ordinance—Town of Superior, as a reasonable zoning regulation affecting nonprofit medical marijuana dispensaries. Mr. Richard Turner, Willdan, Mr. Chad Niven and Mr. Chris Wencker were present to discuss this item and read the heading of the Resolution. She referred them to the staff report. The staff's recommendation is to approve Resolution #535, A Resolution of the Mayor and Town Council of the Town of Superior, Pinal County, Arizona, declaring as a public record that certain document filed with the Town Clerk and entitled "Medical Marijuana Model Ordinance—Town of Superior, Arizona."

Attorney Wencker advised council on the two steps in voting on this document. Mayor Valenzuela asked if it was correct that because of the date of their next council meeting, there would not be enough time for applicants to mark their box regarding compliance with the ordinance. Attorney Wencker said yes. His understanding is that the deadline is next Tuesday or next week. The mayor asked if they tabled this item and held a special meeting on Monday, they could think this over and get more information. Would that be within

those parameters? Attorney Wencker corrected it would be the 25th so that would be that Friday. If they wanted to hold a special meeting within that deadline, as long as it was properly noticed, yes they could do that. Mr. Aguilar asked if they could do an executive. Attorney Wencker said they could include an executive session on that agenda as long as it is properly noticed.

Mayor Valenzuela said he just wanted to get educated. Attorney Niven said they are well within their rights to table but it would not prevent any dispensary from coming in and ultimately giving a lower zoning to the state. Someone could possibly do that tomorrow or Monday. Mr. Gutierrez said that is why his recommendation is to just pass this in an emergency so they don't put themselves in a corner. It may not meet the setbacks from a practical point of view but they need to pass something so that they don't lose that window.

Attorney Wencker said the reason they recommended the emergency clause is so that it is immediately effective so that when an applicant files an application and the town checks off whether or not a zoning ordinance applies, there is no question as to whether or not that applies. If they pass an ordinance without an emergency clause, the Referendum Statute makes it not effective for 30 days.

Vice Mayor Lopez said they have an ordinance they are looking to approve with an emergency clause. If they pass it that night, that gives anybody the right to say they have an ordinance. Do they have the opportunity to review it and do changes between now and then or are they bound by what is written out? Attorney Wencker said there were only two choices in the documentation, one is there are zoning restrictions and the other one is the location is in compliance with the zoning restrictions. There is no choice for "there is a local zoning restriction and it is not in compliance." If they don't comply with it, there is nothing checked. The second question she asked was whether or not they can come back with this and make changes and the answer to that is they always can. They are the town council. They can also have an emergency session to make changes.

MOTION: Council Member Gutierrez moved to approve Resolution #535, A Resolution of the Mayor and Town Council of the Town of Superior, Pinal County, Arizona, declaring as a public record that certain document filed with the Town Clerk and entitled Medical Marijuana Model Ordinance—Town of Superior, Arizona.

He asked the attorney to read the official heading. Attorney Wencker complied. Mr. Gutierrez asked him to read the whole thing and Attorney Wencker read it. Mr. Gutierrez said that was his motion.

Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously.

6. Discuss/Approve/Reject: Ordinance #113, Medical Marijuana Model Ordinance for Town of Superior

Ms. Wentzel said the Superior Planning & Zoning Commission, at their May 10, 2012 meeting, adopted a Zoning Code setting forth the permitted property uses within the Town of Superior, and adopting the entitled "Medical Marijuana Model Ordinance—Town of Superior, Arizona" as reasonable zoning regulations affecting nonprofit medical marijuana dispensaries. Mr. Richard Turner, Willdan, Mr. Chad Niven and Mr. Chris Wencker, the town

attorneys, were present to discuss this item and read the heading of the Ordinance. She referred council to the staff report. The staff's recommendation, and she thought they had defined who staff is this evening, is to approve Ordinance #113 of the Mayor and Town Council of the Town of Superior, Pinal County, Arizona, amending the Town of Superior Zoning Ordinance by adopting the "Medical Marijuana Model Ordinance—Town of Superior, Arizona," providing penalties for violations, providing for severability and declaring an emergency.

She said this was the time to ask questions. Mr. Gutierrez said this ordinance establishes a setback of 100 feet, is that right? He said that even though it doesn't meet the requirements of some of the applicants, they are putting a benchmark out there. Whether others accept it or not is beside the point. Attorney Wencker said that was correct. The ordinance established a setback of 100 feet wall to wall.

He said also that Chapter 2 of the Town Code, Section 2-5-3 prohibits same day passage of any ordinance except for emergency ordinances.

Mr. Gutierrez asked the attorney to read the whole thing, which Mr. Wencker did.

Mayor Valenzuela said he had a real problem with the ordinance. He understood what this law is but he has a real problem where there is a preservation of peace, health and the safety of the town and its residents, to pass this as an emergency clause. He does not see this as an emergency clause for this type of action.

Mr. Gutierrez said he did have mixed feelings but relying on the recommendation of planning and zoning, staff doing the review, that is a lot of power out there. He understands the ramifications of not taking action. That is basically being between a rock and a hard place because they are not talking about the individuals that are there. They are talking about meeting a requirement from the state level. Whether it meets the offsets or not is not the material thing because it doesn't meet the offsets. All this does is keep them from some legal action they may get into down the road.

Ms. Wentzel said this was on the agenda in 2010 and tabled. It was never brought forward again. They really are behind the eight ball in trying to get it done.

MOTION: Council Member Gutierrez moved to approve Ordinance #113 of the Mayor and Town Council of the Town of Superior, Pinal County, Arizona, amending the Town of Superior Zoning Ordinance by adopting the "Medical Marijuana Model Ordinance—Town of Superior, Arizona," providing penalties for violations, providing for severability and declaring an emergency. Council Member Tomerlin seconded. Attorney Wencker read the heading and the entire Ordinance. **VOTE:** The motion passed unanimously by a roll call vote of ayes.

7. Presentation: David Smith, Agave Development Group, LLC, would like to discuss his Business Plan for Lot #4 at the Superior Industrial Park.

Ms. Wentzel said Mr. Smith had seen the agenda and thought he would wait until the next council meeting.

MOTION: Council Member Tomerlin moved table the item. Vice Mayor Lopez seconded.

VOTE: The motion passed unanimously.

8. Discuss/Approve/Reject: Adopt a Proclamation in honor of Foster Care Month

Ms. Wentzel said May is officially Foster Care Month. In Pinal County there are currently more than 600 children in the foster care system. Nationally there are approximately 500,000 children in foster care and more foster families are desperately needed. Staff recommended the adoption of the proclamation.

MOTION: Vice Mayor Lopez recommended they accept the proclamation in honor of foster care. Council Member Aguilar seconded. **VOTE:** The motion passed unanimously.

Ms. Wentzel read the proclamation.

9. Discuss/Approve/Reject: Provide an additional T-1 line at the Police Department to monitor calls from alert pendants issued to senior citizens to notify the Police/EMS in case of emergency

Police Chief Lou Digirolamo said he had expected someone from CAHRA (Community Action Human Resources Agency) to be there regarding the program. He did not see anyone there. Mayor Valenzuela said they had a death in the staff. Chief Digirolamo asked if the mayor wanted to table or wanted him to proceed and the mayor said proceed and if they needed more information they will table it.

Chief Digirolamo said the program was to issue pendants to seniors to notify police/EMS in case of emergency. The pendants themselves are given to seniors free of charge. There are between 25-30 pendants available for Superior residents. The cost to the town would be the installation and a monthly fee of a phone line that would bring it directly to police dispatch. The pendants are the ones they wear around their neck with a button that would ring to the PD and then that would be answered by dispatch. Installation of a T1 router is \$699. The provider would waive that fee with a three year contract. There is a 36-month, one-time installation fee of \$500 that would also be waived if they signed a three year contract. What it would cost the town would be a monthly monitoring fee to set up the line itself of \$349 for a three year contract.

Mr. Gutierrez asked what if they pay the fees but don't sign the contract. The Chief said they would charge \$1,199 for the installation. Responding to Mr. Gutierrez' question about the monthly fee, the Chief said he believed it still would be the same. Mr. Gutierrez asked if the grant was just for the hardware. The Chief said it was just for the pendants themselves. They were awarded \$8,000 and they cost \$8 each. Mr. Gutierrez asked what if they break. The Chief said that is something they'd have to work out..

Mayor Valenzuela said all of the municipalities where it can be incorporated are installing the line directly to the police department. If you are an unincorporated area, those lines ring directly to the county. So in an incorporated area as Superior is, the lines would ring directly to the police department and they don't have a dedicated line to that. Mammoth, Casa Grande and Florence have all put these dedicated lines into their systems.

Fire Operations Chief Todd Pryor also advised council regarding technology.

MOTION: Council Member Tomerlin moved, due to the person not being there to represent and time constraints, to table the item until the next council meeting. Vice Mayor Lopez seconded.

Mr. Gutierrez said when they come back they need to find out re the need for a T1, but this was a good thing.

VOTE: The motion passed unanimously.

10. Discuss/Approve/Reject: Continue to allow certain Police Department employees to take home police vehicles in lieu of paying standby pay or other compensation.

Public Safety Director/Police Chief Digirolamo said this came up from Mr. Tameron's question. There are currently three officers that take town police vehicles home. They are himself, Chief Digirolamo, as part of his benefits package in his employment contract that allows a take home vehicle or \$400 a month in compensation in lieu of a take home vehicle; Lieutenant Campbell who takes a car home in lieu of standby pay and/or overtime when responding back to town when his presence is needed; and Detective Sergeant Lieber, who takes a car home in lieu of standby.

Regarding the fiscal impact, he said he drives a 2000 Ford Crown Victoria with 152,000 miles. Round trip is 70 miles per day, five days a week for a total of 350 miles per week/1400 miles per month. Lt. Campbell drives a 2007 Ford Crown Victoria with 101,000 miles. Round trip is 78 miles per day, four days a week for a total of 312 miles per week/1248 miles per month. Sgt. Lieber drives a 2006 Ford Taurus with 73,000 miles. Round trip is 98 miles per day, four days a week for a total of 392 miles per week/1568 per month. Ninety percent of the miles driven back and forth are highway miles. Assuming that Chief Digirolamo's vehicle gets 18 mpg and gas is \$4 per gallon to allow for wear and tear, it costs the town \$311 per month. Assuming Lt. Campbell's vehicle gets 18 mpg and gas is \$4 per gallon, it costs the town \$276 per month. Assuming that Sgt. Lieber's vehicle gets 20 mpg (6 cylinders) and gas is \$4 a gallon, it costs the town \$313 per month.

Standby pay is allowed per the Town of Superior personnel rules. If Lt. Campbell is on standby and paid one hour per work day and two hours on his days off, he would accumulate 10 hours per week. Lt. Campbell is paid \$28.14 per hour straight time. To compensate Lt. Campbell each week would cost \$281/\$1124 per month. If Sgt. Lieber is on standby and paid one hour per work day and two hours on his days off, he would accumulate 10 hours per week. Sgt. Lieber is paid \$21.93 per hour straight time. To compensate Sgt. Lieber each week would cost \$219/\$876 per month. If this compensation package is eliminated, Chief Digirolamo said he believed that police service would suffer due

to the fact that these officers would not be required to respond or answer calls on their off duty hours. He believed there are several court cases that addressed standby pay.

He said the choice the council has is leave the program alone or eliminate cars and pay standby or eliminate the cars and not pay standby.

Mr. Gutierrez summed up the figures and verified them with the Chief. He said the way he looked at it you are looking at value added, not just the numbers. He knows this is a passionate thing to some residents but there is value added component in addition to that.

Chief Digirolamo cited an example when they had an armed robbery. The person was injured and flown straight to Scottsdale Memorial. The detective had a take-home car and went straight to Scottsdale Memorial and eliminated the response time. He would have had to come from Mesa to Superior, get a car, go back to Scottsdale, interview the person and bring the car back to Superior and then drive home.

Mr. Gutierrez said he had been a technician and there is a difference with a take-home car. This is pretty straight forward. They have a contractual agreement with the Chief and then these other agreements. He said when the Chief calls the officers on standby they more than likely answer. The Chief said they have to answer. Mr. Aguilar said they could just live in Superior. Mr. Gutierrez said he would rather have a police department that doesn't have institutional knowledge of everybody because that is a good way to fight crime. He agreed with Mr. Aguilar that in time they should look at having a local residency requirement. The mayor said this is a good time.

Mr. Aguilar said his main question is they have gone over and over this, the same thing. His concern was officers taking their cars home. Mr. Aguilar said he wasn't talking about those who take them home all the time. He is talking about those who don't take them home all the time and every once in a while take them home. Chief Digirolamo said they talked about that and on occasion and approved by a supervisor they are very rarely allowed to keep a car at the end of their shift and he cited an example. Council Member Tomerlin said he had known it to happen maybe six times in the four years he has worked as an Explorer.

Mr. Tameron said the reason he brought this up is that he had asked the question to previous staff twice and never got an answer. He got the answer and he is okay with it.

MOTION: Council Member Gutierrez moved to continue the current status of police department employees described, to continue with the current policy they have in place.

Mayor Valenzuela said he had a question and comment. He asked Chief Digirolamo if all three of them are on call at the same time. The Chief said yes and the reason for that is he takes his phone home all the time. The mayor said he could see the Chief as administrator being on call 24/7, but the other two, why are they on call at the same time? Why don't they alternate? Chief Digirolamo said they could and the reason they don't is because the lieutenant is set up as more administrative and the detective goes and takes the calls, just as he himself doesn't go all the time and take call-outs as he has administrative duties as the chief. Even if they decided to switch that to one week each, there would still be savings financially.

Mayor Valenzuela said he thought the numbers were flawed as they did not include any wear or tear of the vehicles. The Chief said they did, that is why he charged \$4 for gas. The mayor said that was very generous as gas is at \$3.77. Council Member Tomerlin said he also lowered the miles. Mr. Gutierrez commented on the added value cost and that is why he made the motion.

Council Member Tomerlin seconded.

VOTE: The motion passed 5-1 with Mayor Valenzuela opposed.

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: The Mayor and Council may vote to go into executive session pursuant to A.R.S. section 38-431.03(A)(1) for discussion or consultation for legal advice with the Town's attorney or attorneys regarding modification of Employment Contract
2. A-3—LEGAL ADVICE WITH ATTORNEY: The Mayor and Council may vote to go into executive session pursuant to A.R.S. section 38-431.03(A)(3) for discussion or consultation for legal advice with the Town's attorney or attorneys regarding a Notice of Claim filed with the Town by Luigi Digirolamo and Michael Campbell
3. A-7—LEGAL ADVICE WITH ATTORNEY REGARDING SALE, LEASE OR PURCHASE OF REAL PROPERTY: The Mayor and Council may vote to go into executive session, pursuant to A.R.S. section 38-431.03(A)(3) (*sic, this was on council agenda as A.R.S. section 38-431.03 (A)(3) rather than 38-431.03 (A)(7)*), for discussion or consultation for legal advice with the Town's attorney or attorneys regarding the 669, 679, 681 Main Street property.

MOTION: Council Member Tomerlin moved to go into executive session pertaining to J1, J2 and J3. Council Member Tameron seconded. **VOTE:** The motion passed unanimously. Council entered executive session at 11:14 p.m.

MOTION: Council Member Aguilar moved to go back into regular session. Council Member Tameron seconded. **VOTE:** The motion passed unanimously. Council entered regular session at 11:53 p.m. Mayor Valenzuela said they would direct staff to act on executive items discussed.

K. COUNCIL COMMENTS

Council Member Aguilar: N/A

Council Member Gutierrez: Said even though he did not participate in the cemetery cleanup, he knows they didn't get the whole thing but it looks very good. He hopes they can find a way to maintain that because when the rains come they are going to be right back where they were. They need something more permanent but it looks great. He thanked the minute taker for improvement in minutes. He also thanked the Pinal County Sheriff's Department for the \$5,000 contribution for the summer recreation department. Hopefully, maybe they could do free

swimming all summer. That would be nice to get that from the Sheriff's Department. He appreciated their attorneys and police chief.

Council Member Tomerlin: N/A

Council Member Tameron: N/A

Mayor Valenzuela: Said thanks to everybody who came out to work at the cemetery. To Mr. Gutierrez, he said he got a second chance as they would be out there that Saturday with the inmates finishing it up. If anybody wants to be out there, they will be there from 6 to whatever time it takes to finish. Please express their thanks to everyone who showed up to clean up the cemetery and everyone who donated for the project.

L. FUTURE AGENDA ITEMS

1. Budget Work Session

Ms. Wentzel said she was well aware they need to do a budget session. In a few weeks they would have a comprehensive budget session and get going.

M. ADJOURNMENT

MOTION: Council Member Aguilar moved to adjourn. Council Member Tameron seconded. **VOTE:** The motion passed unanimously. Mayor Valenzuela adjourned the meeting at 12:09a.m. on May 18, 2012.

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 17th day of May, 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

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.