

**Town of Superior
Regular Council Meeting
Thursday, October 4, 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 7:05 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 Chris Tomerlin, John Tameron, Gilbert Aguilar, Soyla “Kiki” Peralta and Mayor Jayme Valenzuela; **Absent:** Vice Mayor Olga Lopez and Council Member Hank Gutierrez

E. CONSENT AGENDA

1. Approval of Request by Resolution Copper Mining for Street Closure at the intersection of Magma and High School Avenues from October 8, 2012 through October 22, 2012 for construction of a storm drain;
2. Application for a Blanket Permit for Kathy Denogean to conduct fundraising activities for the Lopez families; (Withdrawn prior to the meeting by Kathy Denogean.)
3. Application for Alcohol Beverage Permit. Kathy Denogean would like to hold a fundraiser Horseshoe Tournament at the Skate Park. (Withdrawn prior to the meeting by Kathy Denogean.)

Council reviewed the items in the consent agenda. After Communications, Mayor Valenzuela went back to Item #1 on the Consent Agenda and asked Todd Pryor if there would be any issues for emergency access who responded that there is adequate access. Mr. Charlie Porch, the contractor, also spoke regarding the access issues.

Council Member Tameron recused himself from the vote due to a conflict of interest.

MOTION: Council Member Soyla “Kiki” Peralta moved for approval of Item #1 on the consent agenda. Council Member Aguilar seconded. **VOTE:** The motion carried unanimously.

F. REPORTS

N/A

G. COMMUNICATION

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

Interim Town Manager/Clerk Rita Wentzel reported and responded to questions on items of communication, including: Letter to the Arizona Auditor General's Office dated September 24, 2012 requesting an extension of the time-frame for completing our FY12 Audit and Annual Expenditure Limitation Report; Letter to the Arizona Department of Health Services dated September 12, 2012 requesting an automatic rate increase for our ambulance services; Communication from the Tonto National Forest Globe Ranger District regarding a comment period for a proposed Plan of Operations (Plan) submitted by Resolution Copper Mining, LLC, to conduct a magnetotelluric geophysical survey on National Forest System lands, making use of existing roads. The comment period ends 30 days from publication in the Arizona Silver Belt Newspaper or approximately October 22, 2012; and Resignation of Anthony Goodman from the Streets Department effective immediately.

H. CALL TO THE PUBLIC

Ms. Barbara Yates, 97 W. Gorham, spoke regarding the Library building handicap accessibility to the lower level of the Library. The area between her vehicle and the ramp was uneven and filled with gravel and she requested that the area be cleaned by the inmates so it was accessible. Her second concern is the children playing along the street near her home. There are no traffic signs to caution or slow traffic and she believes it is necessary.

Mr. Curt Williams, 96 N. Lobb, spoke regarding the "Interim" Town Manager/Clerk position. He began with an adage from the 12-step program: You only have to change one thing, and that is everything. Cronyism, nepotism, posting of jobs are his concern. "Interim" is not into perpetuity and you should not wait for eight, nine, ten months to post it. He stated the surrounding communities who have lost top-level staff and have posted and filled it. He followed-up with his comments that the Town is non-compliant with respect to Americans with Disabilities all over the Town. Police Department does not have van parking. The Town Hall is not properly done. Do not have access where there is proper signage. Stores and restaurants are non-compliant. He recognized the Town's issues with money but suggested that we need to make some progress. Finally, he restated that we only have to change one thing and that is everything.

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

1. Presentation: Arizona Department of Transportation (ADOT) Public Affairs Presentation

Ms. Kathy Boyles, Public Affairs Manager for ADOT Communications, introduced herself and all the ADOT employees present: Mr. Rod Lane, Globe District Engineer, Mr. Bill Peterson, Public Affairs Manager for Northern Arizona, Mr. Rob Lieberman, Senior Community Relations Manager and Ms. Vicki Bever, Project Manager for US 60. She followed the introductions with a presentation regarding the future of transportation for the State of Arizona. Ms. Boyle provided the Council with handouts of her presentation.

2. Presentation: Arizona Department of Transportation (ADOT) US 60: Silver King Section & Superior Streets

Mr. Rod Lane, Globe District Engineer for ADOT, provided a presentation regarding the US 60 Silver King Section and Superior Streets project as well the Globe District projects that are going on right now. Mr. Lane provided the Council with handouts of his presentation. This presentation was followed by a brief question and answer period with members of Council and audience. Mr. Lane clarified that neither of the projects are under way—rather they are at 30 percent and still working on the environmental analysis with these projects. There have not been any public hearings as we are not yet ready to provide the detailed information to the community. Mr. Lane finally clarified that the US 60 Bypass around the Town of Superior is not funded and is not scheduled for action for 15 to 20 years from now. Mr. Bill Peterson provided a written communication regarding the US 60 Improvements through Superior. Council Member Aguilar clarified that the project is funded, is in the budget and is under way for completion in 2015. This project begins where the double lanes of the US 60 merge to the West of the Arboretum and end at the SR 177 bridge. The double lanes will end at the Silver King Road and it will be four (4) lanes through Superior and past Stone Avenue and then back to two (2) lanes at the ramp to the SR 177. He indicated that they need to sit down with Town staff and work through the issues. Council member Aguilar asked why take four (4) lanes through the Town itself? Mr. Lane indicated that traffic projections show that this will be needed more and more as time progresses. Council member Tomerlin indicated that there are several safety issues—especially with pedestrian traffic and suggested that ADOT should construct a pedestrian overpass. The ADOT right-of-way challenges were addressed. Council member Tameron brought up a point that businesses on the highway are utilizing the right-of-way yet they are allowed to do so—and—are parking on the sidewalks and curbs. Mayor Valenzuela asked who would enforce the right-of-ways. Mr. Lane indicated they educate so that local law enforcement and Department of Public Service can handle enforcement. Council Member Aguilar indicated the biggest issue is getting the big trucks from the SR 177 to the US 60. Ms. Pamela Rabago expressed a concern that if we do not do the four (4) lanes then the bypass will become a reality. She did indicate that she would like to see at least one (1) and maybe two (2) pedestrian overpasses. Mr. Curt Williams commented on the need for four (4) lanes and if we didn't do so, that we would be bypassed. Mrs. Kathryn Arnold asked about the design to bypass the Arboretum and how the parking would be constructed and asked why it is separate. Mr. Lane indicated that the Arboretum obtained Federal funding for their parking redesign and that is why it is not integrated into the Silver King and Superior Streets project. Ms. Rabago asked for clarification that the design is not set in stone as was indicated by Pinal County. Mr. Lane indicated that they were not ready to present the design to the public yet. Federal law requires a significant amount of public participation and ADOT is moving toward that process now. Council Member Tameron indicated he participated when

the US 60 sidewalk and lighting beautification took place. That process was followed and Mr. Tameron indicated that it works well. Mr. Lane indicated that they had recently begun working with Ms. Wentzel and expect to continue working with her in this process.

Mayor Valenzuela briefly recessed the meeting between 8:20pm to 8:35pm so that the ADOT personnel could break down their presentation equipment.

3. Discuss/Approve/Reject: Planning & Zoning Commissioner Term Expiration, Advertisement and Appointment

Two (2) Planning & Zoning Commission terms ended on May 31, 2012, and the individuals have continued to serve in their capacity. The Town Council has not taken action regarding the expiration of these terms or extending their appointment. The Zoning Ordinance requires seven (7) commissioners who are residents and are appointed by the Council. The alternative would be to cancel Planning & Zoning meeting until the vacant seats are filled.

MOTION: Council Member Tomerlin moved to authorize staff to advertise for interested individuals to apply for the two (2) open Planning & Zoning Commission seats and allow Planning & Zoning Chairperson Matt Mashaw and Commissioner Bill Vogler to serve pending reappointment or replacement. Council Member Peralta seconded. **VOTE:** The motion passed unanimously.

4. Discuss/Approve/Reject: Cancellation of Redflex Agreement

Mrs. Kathryn Arnold provided statistics regarding the diminished revenue stream provided by the project since its inception. Council member Aguilar stated that the statistics show that we have lost money every month for the past 12 months. Ms. Wentzel confirmed that with the exception of one (1) month where there was some profit, the remainder was a net loss. Mayor Valenzuela asked Mrs. Arnold if she wanted to speak on the issue. Mrs. Arnold indicated that revenues started declining after the ninth month and she felt it was due to the fact that people became aware of the program. Since November 2011 through June of 2012 there was a loss each month except for one month which was a plus. Mrs. Arnold indicated that there was more to it than the ticket but a certified officer needs to review the video which is approximately 10 hours each month. Also when the contract was initiated, the Justice Court needed to pay the Clerk an additional amount to process everything. Each month there is a large outlay of approximately \$600 per month whether you issue a ticket or not. There is no estimation of the administrative costs associated with the contract. Mrs. Arnold felt that the Town needs to conserve and do what you can to make the best decision. Chief Digirolamo indicated that without the time needed to evaluate the Redflex video, the officer could spend more time out on the street and utilize radar and implement safety issues. There are no shared expenses with Redflex. Council member Aguilar asked when the contract expired. Mrs. Arnold indicated it is a five-year contract due to expire in 2015. Mayor Valenzuela asked if there are fees for early termination or what is the down side to cancellation? Attorney Chris Wencker indicated that the initial contract expires in August 2015 and there are two (2) two-year renewal terms at the end of that so it could conceivably go until 2019. In the contract documents he was provided he indicated that

there is no terminology regarding termination or the manner in which termination can take place. Of course, you can always terminate a contract if both sides agree to it. There are some avenues to help Reflex to consider termination or we could just terminate the contract with some potential legal consequences. He indicated that he preferred to save the detail regarding our actions for an Executive Session.

MOTION: Council Member Tomerlin moved to authorize staff to work with Redflex to see what the avenues for termination of the contract there are. Council Member Tameron seconded.

Mrs. Arnold asked Attorney Wencker if he had reviewed the provisions of the contract regarding termination. Attorney Wencker indicated that there was no such provision in the contract he received. Mrs. Arnold indicated that the way she read it was we simply needed to provide a 45-day notice and provided a copy of that page for Attorney Wencker to review. After review, Attorney Wencker indicated that it was not exactly a 45-day termination and we would still need to discuss termination with Redflex. Council Member Tomerlin restated his motion to direct staff to proceed with the necessary steps to cancel the contract between the Town of Superior and Redflex. Council Member Tameron restated his second. **VOTE:** The motion passed unanimously.

5. Discuss/Approve/Reject: Letter of Resignation by Council Member Gutierrez

Ms. Wentzel indicated that Mr. Gutierrez letter of resignation was included in the Council packet and read the letter in its entirety for the public.

MOTION: Council Member Peralta moved to accept Mr. Gutierrez's Letter of Resignation effective immediately. Council Member Aguilar seconded. **VOTE:** The motion passed unanimously.

The Council did not vote to hold and Executive Session and moved directly to Item K on the Agenda.

J. EXECUTIVE SESSION

The Town Council may or may not vote to go into Executive Session pursuant to ARS 38-431.03 (A-1), A-3) & (A-7)

1. A-1—PERSONNEL
2. A-3—LEGAL ADVICE WITH ATTORNEY: Discussion or consultation for legal advice with the attorney or attorneys of the Town regarding Letter of Resignation from Council Member.
3. A-7—LEGAL ADVICE WITH ATTORNEY REGARDING SALE, LEASE OR PURCHASE OF REAL PROPERTY:

K. COUNCIL COMMENTS

Mayor Valenzuela polled council members present and Ms. Peralta, Mr. Aguilar and Mr. Tomerlin indicated they did not have a comment.

Mr. Tameron indicated he did have a comment regarding Mr. Gutierrez's Letter of Resignation and the conflict of interest. He indicated that he is glad the attorney brought it to his attention regarding his potential conflict of interest that he has with Resolution Copper. He further stated he did not know what the deal was back then but that he must recuse himself regularly with respect to Resolution Copper issues due to his status as a paid contractor. Mr. Tameron hoped the Council could all keep that in mind for the future because this is a sad way to leave the Council.

Mayor Valenzuela also wanted to thank Mr. Gutierrez for his service to the community, and like Mr. Tameron said, it is a sad way to leave your seat that you were elected to. It is what it is and we must move on now. Mayor Valenzuela indicated he had a couple of additional comments addressing some of the comments that were made in Call to the Public. Mayor Valenzuela indicated he understood the term "interim" and feels that is the term he was voted into over the last 18 months in the recall election. He indicated he did not think that it is fair to the community or to someone who we would bring in as Town Manager to throw everything on their plate that this Town is facing right now. He thinks what we should do is what we are doing right now—getting ourselves in line, getting our budget, our audits, wastewater treatment plant up to par, working on some personnel issues, and right now we are down a council member—so right now for us to make a decision to bring on the next Town Manager would be better served when the new Council is seated, which will be in June 2013. It's only eight (8)-nine to (9) months away and that way you will have a full Council that will work together to bring in the best person for the Town. Because to bring them in when we could have another change in the Council, it could be another change—and we don't need a whole lot of change anymore. It is probably one of the reasons that I have not gone out to recruit a full-time Town Manager or even to suggest to bring a full-time Town Manger in right now. I think it is in the best interest of the Town right now to clean-up our back yard before we go throw all our garbage on someone else. Let a new Council work to bring the best person forward for the Town Manager's position. Some of the other things like ADA—I know it's an issue. I have been here ten (10)/eleven (11) months. And I was here before and I know some of these issues were addressed before. The Town is trying. I know I am trying, and I know this Council is trying up here to do everything that is possible. But right now funding—and I understand on the other side of that, we could face the lawsuits. But funding right now is very minimal. People don't believe where we are at, but believe me, once these auditors that Resolution has brought in, people will see the true picture. Because it is not going to come from me, Rita, the Council, but from an outside source to show you the true picture of where this Town is at and what has been done in the last ten (10)/eleven (11) years to get us to this position. There are a lot of things people don't understand. I'll be the first to admit, I didn't understand. Now I am seeing a clearer picture and I am understanding a lot of it. We have a lot of work to do and I am more than willing to work at it. We're going to get there, it's just going to take a lot of time. The other issue I have is the Chamber of Commerce. You know I wish you people would please quit going out there and telling this community that I am against your event. Because I am not against your event. I fully support your event. Ms. Wentzel has told me that she offered you guys to come to a meeting and hasn't gotten a call back yet to make that happen. Okay. We will work with the Town and whatever entity it is to make things happen in this community for the betterment of the community. Not for individuals. Just as we talked about last week. You didn't like when I brought up the point

about some people had some issues. Like I said, if you get the paper signed and they say, “hey, I don’t have a problem putting something in front of my business,” hey let’s go forward. Let’s do it. We have a split right here (gesturing to two married individuals in the audience). He doesn’t want it and she wants it. What do we do? So, it is a tough situation. We’re going to work on the fees, and the fees will be reasonable. Okay. But, please quit going out there and telling people that I don’t support the Chamber of Commerce. Because that is the biggest lie there is out there. The only other thing I have to add is let’s go out there on Sunday and please support the Lopez family for their fundraising efforts for the family this weekend. It is Sunday at the Los Hermanos from 2 to 8pm. They are still taking raffle prizes and donations. I also think our football team has a game on Friday that determines if they will make the State play-offs. So, let’s get out there and support the kids too. I know it’s all the way up in Duncan, I think. Hope to see you all there on Sunday and have a good weekend. Thank you.

L. FUTURE AGENDA ITEMS

1. H.B. 2826 modifying the consolidated election dates for political subdivisions;
2. David Smith Presentation regarding Lot #3, Superior Industrial Park;
3. Report on the Summer Recreation Program RICO Funds Expenditure.

Item L was not addressed at the meeting.

M. ADJOURNMENT

MOTION: Council Member Tameron moved to adjourn. Mr. Tomerlin seconded. **VOTE:** The motion passed unanimously. Mayor Valenzuela adjourned the meeting at 8:55 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the Town Council of the Town of Superior held on the 4th day of October, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

Rita M. Wentzel, Interim Town Manager/Clerk