

TOWN OF SUPERIOR
Regular Council Meeting
Thursday, March 17, 2011 – 7:00pm
Superior Senior Center
360 W. Main St.
Superior, AZ 85173

M I N U T E S

A. CALL TO ORDER:

Mayor Hing called the meeting to order at 7:10pm.

B. SALUTE TO THE FLAG:

Mayor Hing led the council, staff, and audience in the Pledge of Allegiance.

C. OPENING PRAYER:

Mayor Hing led the council, staff and audience in the opening prayer.

D. ROLL CALL:

Council Present: Councilmember Gutierrez, Councilmember Tomerlin (arrived 8:28pm), Councilmember Heglie, Councilmember Peralta, Councilmember Aguilar (arrived 7:15pm), Vice Mayor Lopez & Mayor Hing

Absent:

E. CONSENT AGENDA:

1. **Approval of Minutes Regular Meeting March 3, 2011**
2. **Disbursements for the month of February 2011**
3. **Superior Head Start Preschool is requesting a street closure of Old Phoenix Road, April 21, 2011 for Adopt a street.**

Mayor Hing presented the items on the Consent agenda he asked for any questions or comments. Councilmember Peralta expressed her concern that Councilmember Gutierrez not approve the disbursements because there were funds disbursed to his business and that was a conflict of interest. Councilmember Gutierrez explained that those disbursements were for telecommunications work that his business provided to the town during their move to the temporary location. He also commented that he did not charge for the use of the rental phones.

Mayor Hing explained to the council that any motion made to approve the consent agenda should list that he and Councilmember Gutierrez recues themselves from the approval of any disbursements to their businesses. Councilmember Gutierrez stated that he recused himself from the approval. Discussion followed that there was not a quorum to approve the disbursements. At 7:15pm Councilmember Aguilar arrived which allowed for a quorum with the recusal of Mayor Hing and Councilmember Gutierrez.

MOTION: Vice Mayor Lopez made a motion to approve the consent agenda recusing Mayor Hing and Councilmember Gutierrez from approving disbursements to their businesses. Councilmember Peralta seconded the motion.

VOTE: *The motion was approved. Mayor Hing and Councilmember Gutierrez recused themselves from approving disbursements related to their businesses.*

F. COMMUNICATION:

1. Managers Report

a. Magma Club Update

Ms. Oliver introduced John Christensen the project manager for the Magma Club renovations. He explained that everything is on schedule and he is working with contractors Rodriguez Construction and Burdon Electric. He explained that they may need volunteers to assist with the painting. He also commented that basic kitchen appliances would be installed and if funds were available at a later time the hook ups are installed for the commercial kitchen equipment. He explained that there may be enough funds to install heat pumps. He stated that according to the grant heating is required but cooling is not. He stated if the heat pumps were not able to be installed due to budget constraints swamp coolers would be reinstalled but would not be installed on the roof.

b. Apache Leap Days March 18-20

Ms. Oliver introduced Ms. Lira who gave an update on the weekend event. She first off thanked all the town staff especially public safety and public works for working so closely with the Chamber to put on this festival as well as throughout the year. She reviewed the entertainment line up and activities for the weekend and commented on recent out of town media exposure.

c. Report on Open Meeting Laws and Urgent Needs Funding

Ms. Tahan explained that based on her research she did not think there was a violation of open meeting laws when the council approved the disbursements of the 2010 & 2011 Urgent Needs funding from Resolution Copper. She stated that at the previous retreats these items were discussed and the backup documentation provides the information that is needed for the council to vote. She stated that if the council determines that there was a violation then the members who made the motion can rescind their motion and the council can direct staff how to proceed. Ms. Tahan also explained that it was discussed in one of the retreats to split the funds 4 ways. She also stated that anyone who wishes to pursue this further will need to write a letter to the Attorney General however the Attorney General will consult with the Town Attorney regarding their advice given to the council first.

Councilmember Gutierrez explained that everything that was discussed in the work sessions were in regards to the 2010 funding and that at no time was it discussed to

plan for the 2011 funding. He stated that he felt it was unfair to the public that they were not included in the planning for the 2011 funds. He also stated that he attended open meeting law training with the Superior School Board as well as the League of Cities and towns and both sessions stated that agenda items must be clearly stated so the general public can understand. He also commented on a reference made by Ms. Tahan that she "didn't think" it was a violation.

Councilmember's Peralta and Aguilar commented that they did not wish to rescind their motions. Mayor Hing directed staff to proceed with invoicing Resolution Copper.

2. Finance Report/Revenue and Accounts payable - Nicole Welty, Accounts Clerk

Ms. Welty gave a detailed report and answered questions from the council based on her written report. She explained that revenues are coming in above what was predicted however she did explain that there was a tax audit that was done and it was found that there were \$160,000 in unpaid sales taxes that were collected this year and returned to the town. She also confirmed that the State did not fund the LTAF and any monies for street signs have had to be spent from other budget areas as they were needed. Discussion followed on the need to break out the revenues and expenses a little more clearly and also on the status of garbage and sewer collection procedures.

She also reported that there were several outstanding balances to Wildan and Southwest towing that were paid in full due to slow invoicing. She also commented that the upcoming increase to the garbage rates had nothing to do with the recycling program and was part of the contract with Allied Waste to have a 4% rate increase. Ms. Oliver also stated that staff does the best to purchase items locally as much as possible so that is why outflow to the Superior Lumberyard is higher.

Discussion followed on the dues paid to the Superior Rotary; Ms. Oliver explained that at this time staff is unable to attend the regular meetings but encouraged the council to attend. Vice Mayor Lopez volunteered to be the weekly representative. Councilmember Gutierrez said he could be a substitute if Vice Mayor Lopez is unable to attend.

Ms. Welty also stated that they reports are still being refined to provide data as clearly as possible and it is the staffs intention to keep the second meeting of the month light so there is ample time for discussion of the monthly financial report.

G. BUSINESS; POSSIBLE DISCUSSION AND/OR ACTION ON THE FOLLOWING:

1. Discuss/Approve/Reject Triplet Mountain Communications, Inc. of proposed contract and options of fiber optic and power installation

Ms. Tahan explained that the proposed agreement presented to the council called for a \$100.00 a month rent for the land where the infrastructure will be placed and 3% of revenues if when/if the vendor sells broadband services. Councilmember Gutierrez expressed great

concern that staff presented a licensing agreement when this request was for a simple lease of land and easement of property. He explained that the license agreement would only be given or needed if the vendor was actually selling communication services such as broadband internet, cable or phone services. He also stated that it needs to be required that the infrastructure be aesthetically pleasing. Discussion followed on whether a lease agreement or licensing agreement was needed for approval. Ms. Oliver suggested tabling the item once again to make sure that everything is done correctly. Councilmember Gutierrez suggested that Mr. Udall from Triplet Mountain communications explain what he needs for this project to move through.

Mr. Udall explained that at this time he was requesting a lease of the property and an easement for 5 years. He stated that he is leasing the fiber lines from SRP for the next 20 years. He explained at this time his company is not a service provider in Superior but may consider it in the future or leasing to another service provider. He said from this hub it will help to expand broadband internet services to the entire Copper Corridor. He stated that in Globe he is a service provider but there are two separate licenses and agreements that were needed.

Councilmember Gutierrez explained that he would be recusing himself from the vote because he may have the opportunity to do business with this company in the future. Discussion followed on whether to make a motion to direct staff to draft a simple lease and allow easement access and to table the item.

ACTION: Vice Mayor Lopez made a motion to table the agenda item. Councilmember Aguilar seconded the motion.

VOTE: *The motion passed 6 ayes – Councilmember Gutierrez recused himself from the vote.*

2. Discuss/Approve/Reject Canvassing of the Votes

Ms. Oliver explained that the council needed to canvass the votes from the recent council election. She read the results of the election:

Merlin Gindlesperger – 114

Richard Green – 113

Lynn Heglie – 184

Olga Lopez – 278

Soyla Peralta – 218

John Tameron – 311

Write Ins – 4

Ms. Oliver announced that Vice Mayor Lopez and Mr. Tameron earned enough votes to be elected, and that Councilmember Peralta and Councilmember Heglie would require a run off election slated for May 17th.

ACTION: Councilmember Aguilar made a motion to approve the canvassing of the votes. Councilmember Tomerlin seconded the motion.

VOTE: *The motion passed unanimously.*

H. CALL TO THE PUBLIC:

Mayor Hing reminded the members of the public that they may make their comments directly to the Mayor.

1. Freddie Miramon

Expressed his concerns that there has been little progress on the BHP soil clean up on the north side of Town. He stated that he has been in contact with Arizona Department of Environmental Quality and they suggested that the Mayor/Town Staff request an open house or hearing on the status of the project. He expressed much concern for the elderly residents in the area that are not able to attend meetings and may not know about any progress being made. He gave the phone number of Tom DeMazzio from ADEQ 602-771-4229.

2. Sue Anderson

Ms. Anderson invited everyone to attend the 5th Annual Community Pride day on April 2, 2011. She explained that the cleanup will begin at 7am with a lunch served at noon. She thanked Resolution Copper, Orion Recycling, and Allied Waste for the donation of roll offs. She stated that they need lots of volunteers.

I. EXECUTIVE SESSION:

The Town Council may or may not vote to go into Executive Session pursuant to ARS38-431.03 (A-1) & (A-7).

A-1 –PERSONNEL: A-3 LEGAL ADVICE WITH ATTORNEY:

A-7 – LEGAL ADVICE ON SALE, LEASE OR PURCHASE OF REAL PROPERTY

J. COUNCIL COMMENTS:

1. Councilmember Aguilar

Reminded everyone to spend money during the Apache Leap Days. He also commented that he has spoken to Resolution about the soil sampling on the north side of town and he encouraged Mayor Hing to make a few calls to get the process moving.

2. Councilmember Peralta

No comments.

3. Councilmember Gutierrez

Stated that he is open to working out the methodology of the purchase of the Roosevelt School so the Town can begin using the district office for town hall sooner rather than later. He stated there may be an opportunity for the town to move in quickly. He also commented that the school will be able to purchase their football field lights through the grant the town assisted with and the energy savings they will have.

Councilmember Gutierrez also commented on the work done by local contractors Superior Environmental and Copper Resources for their work at the Little League Field. He explained that these companies were able to donate time and resources to help the Little League install sod on the outfield. He also commented that there had been a delay on the BHP soil sampling reclamation due to staff changes at ADEQ.

4. Councilmember Tomerlin

Thanked Ms. Anderson and the Lets Talk Trash Committee for all the work they do to keep Superior clean. He stated that you almost can't recognize the town anymore because of the clean ups. He also encouraged everyone to attend the Apache Leap Days.

5. Councilmember Heglie

Absent

6. Vice Mayor Lopez

Vice Mayor Lopez reminded everyone to come out to the festival and be safe. She also said that volunteers were needed on Friday morning to help install the sod on the field. Vice Mayor Lopez asked the Mayor to please nudge ADEQ and BHP for some progress on the soil project and also commended Ms. Anderson for her work on the clean ups. She stated that family who visited recently commented on how things were looking much cleaner in Superior.

7. Mayor Hing

Mayor Hing congratulated Vice Mayor Lopez and Mr. Tameron for their recent election victory. He stated that he has been in contact with BHP and they expect some progress in the late spring and that there was another small hang up in finding a place to take the contaminated soil too. Mayor Hing commented on the recall committee and asked them to be very clear when requesting signatures because they are only recalling the Mayor. People are telling him that they are being told that signing the petition is in regards to firing the manager and cemetery issues. He encouraged anyone considering signing the petition to make sure to read the heading.

ADJOURNMENT:

MOTION: Councilmember Tomerlin made a motion to adjourn the regular meeting. Councilmember Peralta seconded the motion.

VOTE: The motion was approved unanimously and the meeting adjourned at 8:59pm

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Town Council of the Town of Superior held on the 17th day of March 2011. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

Melanie Oliver _____

Melanie Oliver
Town Clerk/Manager

These Minutes were compiled and transcribed by

Mila Lira

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*Final editing of these minutes and their content is completed and verified by staff members of the Town of Superior.