

**Notice of Public Meeting
Town of Superior
Regular Council Meeting
AMENDED
Thursday, August 4, 2011-7:00 P.M.
Superior Senior Center
360 Main Street, Superior, AZ 85173
MINUTES**

A. CALL TO ORDER

Mayor Hing called the meeting to order at 7:00 p.m.

B. SALUTE TO THE FLAG

Mayor Hing led the salute to the flag.

C. OPENING PRAYER

Mayor Hing led the opening prayer.

Following the opening prayer Mayor Hing apologized to the public for microphones being down. He explained they were waiting for the sound man to come and until then they would speak as loudly as possible.

D. ROLL CALL

Present: Council Members Hank Gutierrez, Chris Tomerlin, John Tameron, Gilbert Aguilar, Soyla "Kiki" Peralta (joined the meeting at 7:05 p.m.), Mayor Michael Hing, Vice Mayor Olga Lopez

E. CONSENT AGENDA

1. Approval of Minutes for Regular Meeting July 21, 2011 and Special Meeting minutes July 28, 2011
2. Blanket Permit for Cathy Ramirez fundraising
3. Blanket Permit for Mary Romero fundraising (MOVED TO ITEM G5)
4. Blanket Permit for St. Francis Church for church Fiestas and fundraising

Deputy Town Manager Digirolamo explained that there had been communication. Item E3 needed to be moved to the business section of the agenda as Item G5.

Mayor Hing said the motion would include moving item number 3 for discussion in the main business for tonight as item number 5.

Deputy Town Manager Digirolamo asked that Mayor Hing when announcing motions say the first names of Mr. Tomerlin and Mr. Tameron for the minute taker. The two council members sit close together. It would be easier for the minute taker to understand.

Mayor Hing said he would.

MOTION:Vice Mayor Lopez moved to approve the consent agenda, moving item number 3 for discussion to the main business as item number 5. Council Member Tomerlin seconded.

VOTE:The vote to approve was unanimous of all present.

F. COMMUNICATION

1. Manager's report—Deputy Town Manager Lou Digirolamo

a) Update on former Town owned property at 230 W. Main Street

Deputy Town Manager Digirolamo said there was a request from one of the council members to update the council on the status of 230 W. Main. That was across from the old Town Hall and was the Sanitary District at one time. Council had voted to sell that piece of property. It did get a buyer for \$50,000. Terms at that time were that there was an interest payment only of \$267 for three years and then there was a balloon payment and that balloon payment is due May 1, 2013 for \$40,000.

There were council comments, questions and staff responses on this item.

b) Update on construction and sewer connections, Resolution Copper on Magma Avenue

Deputy Town Manager Digirolamo said they may have noticed there has been some construction on the north side of Magma by Resolution Copper. What they (Resolution) are doing up on the hill is to put some portable trailers such as the town had for town hall. After that they were going to bring down the sewer line. The intent was to tap into the main sewer line on Magma owned by the Town of Superior.

Deputy Town Manager Digirolamo said he believes DalMolin is doing the work. They (Resolution) had come in and paid the regular tap-in fee, which is \$500, for the start of the project. After discussion with staff and the mayor, because they (Resolution) are outside the town limits, the town had met with Jon Cherry, vice president of Resolution Copper, and discussed how the town could be compensated for that sewer tap. So they are in negotiations. Once there a reasonable offer or a payment plan, it will be brought back to council for approval or disapproval or whatever the council wishes.

He made further comments.

Mayor Hing explained Mr. Cherry had spoken to the council in the last meeting and addressed this sewer tap-in. That had made him think about it and ask staff. He said the company was to tap in from some of the buildings on their property.

Mayor Hing asked staff and was told Resolution was outside the city limits. They have no right at this time even on a normal fee that is given out to the community as a \$500 tap-

in because the code doesn't address it. He explained Resolution is considered outside the city limits and this spurred a conversation with the staff in understanding the mechanism. He didn't hold anything against the staff because it had come in as a normal application for tap-in but after seeing Mr. Cherry's letter here (he referred to a letter in the council's packet) about tapping into the sewer system, it didn't seem right, that there was more to it.

Mayor Hing said the chief (Deputy Town Manager Digirolamo) met with the Mr. Cherry, the president of Resolution. Mr. Cherry advised that they are not going to tap in and they fully understand the sewer mechanism.

Mayor Hing clarified for the public that residents and businesses pay a monthly fee but the property taxes they pay also pay for the sewer system of the community. So they were covering from two ends, from a regular monthly fee as well as a property tax from each property.

Mayor Hing explained that Mr. Cherry fully understands how this mechanism works. Mr. Cherry assured him he will work with them to come up with a comparable deal to come back to the town of possibly hooking into the town system.

Mayor Hing clarified that he did not want to say they are not allowed to. He thinks this is an opportunity to gain more revenue hooking in, especially the mine, into the system, making them pay a fee up front equal or comparable to what they would pay if they were in the city limits. So he thinks it is a possibility for revenue.

Mayor Hing made further comments.

Attorney Wencker advised he had done more research following the conversation. There is a specific mechanism for out of town businesses that want to tap into the system. There needs to be an assessment as to how it is going to affect the system, increase the load, and what is going to be required. Then this would relate to the cost as to what is going to be the cost to the town.

Attorney Wencker said he is certain they can relate that somehow to the rate to charge. He explained they would have to have a public hearing and then set that rate. Setting a fee for the sewer system does not prevent them from entering into a contract with somebody or negotiating what they are going to pay for the sewer system. So there are a couple of different ways to do that: either just charge a rate or negotiate a contract for what they are going to pay for using the sewer system.

There were further comments on this item.

Mayor Hing said it would be brought back.

Vice Mayor Lopez added an instruction for staff to find out from Kearny and Globe what they charge for residential and commercial sewer use.

- c) Authority and duties for Mayor, Council, Town Manager, Town Attorney per Town Code – Chris Wencker, Town Attorney

Attorney Wencker passed out and discussed a detailed memo to the town council regarding authority and duties of a mayor, council, town manager and town attorney:

This goes into some detail about the town code and Arizona Revised Statutes on the mayor, the town council, the town manager, the town clerk, myself, the town attorney, and the public works director. Of those, the public works director is the only one that isn't addressed by statute. The town attorney is really only a title. The duties of an attorney are established (by the state bar and whether it is a town or a citizen, it is sort of the same thing we do for them). The town code, however, has a lot of information on a lot of these various positions.

So I wanted to give you this memorandum to give you some background, but in general, what the mayor is supposed to do is be the chief executive of the town. Basically he is like the president for the town. So he is responsible for executing the laws, just the same as the president would be or governor or representing the town in other governmental agencies and other bodies ... things like that. But also one of the things unique about the office of the mayor is his responsibility in an emergency. So if there is a war or a terrorist attack or anything like that, the mayor has the authority to declare an emergency and then to govern by proclamation, just the same as the governor (interruption for microphone testing, discussion, microphones fixed, Attorney Wencker continues). And so again, the mayor can govern by proclamation in an emergency. The other thing is the mayor is sort of like the CEO of a corporation, signing documents on behalf of the town, sign checks, drafts, and things like that. And then, finally, the mayor is the one who runs the council. He is responsible for calling the meetings of the council. If there is any special meeting that is outside the regular scheduled meeting or if some emergency would arise that we needed to get the council together, the mayor is the one who is taxed with making that call. A mayor is really a peculiar executive in the sense that he is also a member of the town council, so he is both legislature and executive in that sense.

The town council is the next job description that I described in my memorandum. Basically you're the legislature of the town. So you're like the town's conference of the state legislature. The town council has the broadest authority of all the branches of government or the officials in the town. You can both exercise any town authorities unless they are specifically given to some other person. The town council can't call an emergency and govern by proclamation like the mayor can, but pretty much everything else that the town can do, the council can vote to do. So you both have authority in the town. That is like spending money, buying property, taxing ..., making certain things illegal and setting punishments for violations ..., all those kinds of things in the town that are generally referred to as police power. You exercise the police power for the town and that's for the health and welfare of the town's residents.

The town manager is not a position that is required by statute but most towns have it. Most towns that I have worked with, or have been to, have had some sort of manager. The manager is the chief administrator of the town so they usually work under the guidance of the town council directly. The council sets policy. The manager is the one who implements that policy. So that is why, you see, the town manager or the deputy town manager, is sort of a superior department head for all of the departments that report directly to the council, such as the magistrate and the clerk. Everybody else

reports to the town manager. As such there aren't a whole lot of powers for the town manager set forth in statute, other than being an administrator. But the town code has a lot of responsibilities that go with the town manager, making sure that everything, all ordinances, permits, things like that are properly executed in the town, supervising and control of all departments, attending council meetings and report to the council as to how things are going with the town, overseeing expenditures to make sure they are done properly.

Now in Superior, the town clerk also happens to be the town manager. They currently are being held by the same person. It is not absolutely required. The town clerk is an office that is required by statute. The primary function of a town clerk is to be the treasurer of the town. While the town manager makes sure that the money is properly spent, the town clerk is the one who actually pays the bills and keeps the books. So the town clerk is also making sure that records of all the town's expenses are kept, preparing financial reports for the town council from time to time, preparing the budget that has to be done every year and presented to the council, and those kinds of things. The other thing that the town clerk does is act as the town's election officer. So there are various responsibilities under the state's election statutes that the different levels of government have to obey, such as counting petitions and things like that. The town clerk is the person who has that responsibility for the town. The town clerk issues licenses, collects fees and those clerical kinds of things.

The town attorney is basically the person who is hired to provide a little advice and representation to the town. If there is any kind of a lawsuit, the town attorney is expected to at least oversee how the town participates in that lawsuit if not to actually represent the town. It may be too time-consuming for one attorney to handle the kind of lawsuit that is filed or the town's insurance carrier hires an attorney to represent them. In those kinds of cases, the town attorney coordinates with the other attorneys to see that the town's interest is properly represented. All the etiquette rules that govern a town attorney are just the same as any other attorney and the town attorney is supposed to follow those rules in representing the town. That includes things like to retain the confidence of the town, things that are included in attorney/client privilege, to make sure that those are not revealed, to make sure to represent the town fully and things like that.

Finally, the public works director is a position that is not mentioned in statutes anywhere, other than the fact that the town can establish other offices. So you have public works functions such as utility and wastewater plant, streets and roads and things like that. They need somebody to do that and you've chosen to establish the office of the public works director. It is mentioned in your town code as part of the public works department. The town has established a job description for that position. And that's where most details for that memorandum were drawn. But there are also some parts of the town code specifically mentioned as the public works department. The director is the person who runs that department and is responsible for the duties. And those are things like dealing with the sewer system, any time somebody has something with the street, anything to do with the street, they have to get a permit from the public works director. If there are going to be new streets, something like that, the public works director is going to get involved in laying those out and ... things like that.

So, sort of in the order that I presented them, those positions go from ones that are set by statutes, statutes have a lot to say about what they do, to ones that are not set by statutes but strictly by the town's code.

Following the presentation of his memorandum and comments, Attorney Wencker heard and responded to council questions.

Vice Mayor Lopez asked about a phrase in the memo regarding public works directors: We just got the information tonight so I didn't have the chance to review it. But glancing through this really quickly on the public works director, I understand according to the information here, it says, "In many Arizona towns, the public works director is employed under the controlling guidance of the town engineer, which is a position required to be appointed by the town council." Meaning the town engineer is required to be appointed by the council?

Attorney Wencker: That is correct. In a town with 3,000 or more residents, you have to have a town engineer who is a certified, according to the statutes, engineer. That doesn't mean you have to have a town engineer. If you have less than 3,000 residents it doesn't have to be a certified engineer, but if you do have one, it has to be appointed by the town council. The basis for my saying that in many towns the public works director is an employee of a controlling engineer is just my personal experience. And that's generally in towns and cities that are larger and that have a full time engineer working. Does that answer your question, Ms. Lopez?

Vice Mayor Lopez: Yes, it does, for now. Thank you.

Council Member Aguilar: My question is you said the mayor was, in the event of an emergency resulting in fire, conflagration, flood, earthquakes, where does sick leave, a sick person come in, figure in.

Attorney Wencker: I take your question about a sick person as being perhaps I (for example, might) have a contagious disease.

Council Member Aguilar: Well, yes, and taking charge over our ...

Council Member Peralta: (Inaudible.)

Council Member Aguilar: Or the town manager.

Attorney Wencker: That is not one of the conditions listed in the statute as where the mayor can declare an emergency and govern by proclamation. That's where that issue comes in. Governing by proclamation assumes authority over the police department and then directing them to prevent riots and things like that or to impose curfews or to close certain businesses to prevent there from being disorder or a riot in the town. So that's the kind of thing (inaudible due to sound of cough), and so for their being one individual who happens to be ill, that wouldn't be a circumstance that would trigger an emergency declaration. Did that answer your question, Council Member Peralta?

Council Member Peralta: Well, it's not a question. It says here that we have authority to approve medical leave. That means it's the town code?

Vice Mayor Lopez: Chris, would that be more under the town code versus the state statutes?

Attorney Wencker: I think I understand now. Ms. Peralta, I understand your point to be that there is nothing in that emergency rule that gives the authority.

Council Member Peralta: There's nothing in any of it that says he can approve FMLA leave for the manager.

Attorney Wencker: That the mayor just acting alone can approve medical leave, emergency leave. And, that's actually a very tricky situation because the Family Medical Leave Act has certain requirements that the town as employer would be required to follow, as the vice mayor alluded to. That would be something that would fall under the town's personnel policy. Quite honestly I didn't know that was an area that council would want to ask a question about tonight so I didn't put any of that information in the memo, but there are certain requirements in the town's personnel policies but then also the Family Medical Leave Act.

Council Member Peralta: My question is, so if the person who is getting that medical leave is in charge of personnel who ...

Council Member Gutierrez: (Comments regarding not being able to hear)

(There was a brief general discussion between council members.)

Attorney Wencker: I can answer that question, Ms. Peralta. ... Your question is if the person who is seeking medical leave is the person generally who approves that medical leave, then who approves that person's leave. Is that a fair paraphrasing of what you said? That was the question. It would be that person's supervisor, which, taking from your question, the person you are referring to specifically is the town manager and her superior is the town council. There may be logistical ... for saying if a person falls ill in the next council session, that person might not be able to make that request. My advice would be in those circumstances we'd have to look at the situation and see what we can do to comply with the fact that the council needs to supervise people ... but also fulfill council obligations under the law.

Attorney Wencker: ... There may be a situation where the town manager is just unable to show up for work. In that case then we've got a problem. The deputy town manager is acting as town clerk until we make a determination ... I am not sure exactly what happened but ... I am not sure that I can give adequate advice without having been first hand a party ... but I think I have answered your question, have I, Ms. Peralta?

Council Member Peralta: Yes, you have.

Attorney Wencker: (Asked if there were any more questions.)

Council Member Peralta: Yes, I do have one question on the town clerk. At this time, we do not have a town clerk. We are required by law to have a town clerk. So can we legally advertise for a town clerk?

Attorney Wencker indicated he was not aware of the conditions under which the clerk was appointed.

There were more comments from council and staff.

Vice Mayor Lopez: Well, can we ask the mayor do we have a town clerk and if we do who is it?

There were further comments on this communications item.

d) Public Works Director and authority of Town Manager to designate position

Deputy Town Manager Digirolamo requested a second to consult with the attorney.

Mayor Hing told him to go ahead.

Attorney Wencker then explained that one of the things he had just discussed with the chief (deputy town manager) was that things said in executive session should remain confidential. What they discussed in an executive session could not be repeated there today. He said the chief did have some information to give them.

Deputy Town Manager Digirolamo said they did have an executive session. Just for the public's information, this (information he would give) is normal records keeping kept as a daily routine through town business and these certificates are created for the public works director. So he just wanted to read them into the record and for the public to hear: Pima County Community College District Introduction to Public Works, Pima County Community College Certificate Program Building and Instruction Technologies, Pima County Community College District Building Construction Fundamentals, Certificate of Completion Carpentry Curricula, Certificate of Completion Core Curricula, Arizona Department Office of Best Management Pesticide Applicator License, Arizona Department of Environmental Quality Grade I Wastewater Treatment Plant Operator, National Swimming Pool Foundation Certified Pool and Spa Operator, Arizona LATA Backhoe I, Arizona LATA Backhoe II, Animal Care Technologies Introduction to Computer Technologies and Euthanasia Training, Emergency Management Institute FEMA IS-00700 National Institute Management System, Emergency Management Institute FEMA IS-00100 Introduction to Incident Command System, Arizona Red Cross Lifeguard. Then there is maintenance on roads.

They had discussed this with the town attorney before, said Deputy Town Manager Digirolamo. He said it was empowered with the town manager to make different designations, move people from one position to another as long as that position didn't include a raise or a competitive application process, whether it is internal or external only. So there was a public works director position filled with a person from the town

but there was no competitive testing because there was no money and it was not a promotion. It was a change of title.

Attorney Wencker said in that last part, he also put the references to the town code that discusses that.

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

1. Discuss/Approve/Reject Resolution 529 Town of Superior Disaster Mitigation Plan

Deputy Town Manager corrected the agenda item from “Superior Disaster Mediation Plan” to “Superior Disaster Mitigation Plan.”

Building Safety Director Rebecca Brothers said that actually it is “Hazard Mitigation Plan.” She said it is in regard to the deputy town manager, town manager, fire marshal and herself talking a little over a year ago with the county. They had been told if they did not attend a meeting they would not be able to get any kind of grant money if there were ever a hazard such as fires, floods, natural disasters.

She said that at that meeting she was chosen to continue on with the rest of the meetings and they just finished up with the last meeting. They had this in place when Mr. Hettler was here. He was on the team that put it together. It is called Pinal County Multijurisdictional Hazard Mitigation Plan. The last one was 2005 and they have to renew this every five years for FEMA. So that is what they did. They went back to the plan, updated everything and added or took away whatever needed to be done. Now a resolution had to be passed for each jurisdiction and from there it has to go back down to Pinal County. They send it to FEMA for approval.

She explained that once the town received its letter, it can start applying for grants, not just if there is a disaster, there are other grant monies out there. She read explanatory documentation into the record. She thanked the deputy town manager and fire marshal, Todd Pryor, because they helped her with some of the input on this for the town that they in turn gave to be put into the book. The town had received only one book so she would be taking the book to the town hall and it would be available up there. That is what the resolution is for. In order to apply for grants due to a hazard they would be able to apply for monies.

There were questions and comments from the council. The staff responded to questions.

Council Member Gutierrez questioned the timeline and suggested more time for council to review the document.

MOTION: Council Member Peralta moved for approval of the resolution. Council Member Tameron seconded.

Vice Mayor Lopez pointed out corrections in spelling and wording in the resolution.

Attorney Wencker explained there would be a revision.

VOTE:Council Member Gutierrez voted no to the motion. Council Members Tomerlin, Tameron, Aguilar, Peralta, Mayor Hing and Vice Mayor Lopez voted yes. The motion carried.

2. Discuss/Approve/Reject Resolution 530 Final Property Tax Levy for FY 2011-2012

Staff read Resolution 530 Final Property Tax Levy for FY 2011-2012 into the record. Staff and council discussed the levy.

MOTION:Vice Mayor moved to approve the property tax levy. Council Member Peralta seconded.

VOTE: The vote to approve the property tax levy was unanimous of all present.

3. Discuss/Approve/Reject Accepting low bid of \$16,500 from Desert Aire for AC units at Magma Club

Magma Club Project Manager John Christensen updated the council on the bids for AC units at the Magma Club. He explained four bids had been received but only the one staff recommended was in the packet.

Council members questioned Christensen on whether the units were adequate for the cooling needs of the building. There was a discussion between council and staff of calling in the Willdan engineering firm to assess the needs and to put the AC procurement out for RFP (Request for Proposal). There was a discussion of the need for the project to be completed in order to comply with CDBG (Community Development Block Grant) funding requirements but a comment was made that the club could be opened without AC. There were further comments.

MOTION:Council Member Peralta moved to reject the bid. Council Member Tomerlin seconded.

There were further comments about the timeline.

VOTE:Mayor Hing requested a show of hands for the vote. Council Member Gutierrez voted no to the motion. Council Members Tomerlin, Tameron, Aguilar, Peralta, Mayor Hing and Vice Mayor Lopez voted yes. The motion carried.

Mayor Hing instructed staff to post for RFPs as soon as possible and questioned Attorney Wencker regarding the time frame.

Attorney Wencker discussed the timeline.

Council Member Gutierrez said maybe they should consider an APS (gas) audit of the facility.

Mayor Hing made a further comment.

Council Member Aguilar said that he could get that (gas audit) done right away.

4. Discuss/Approve/Reject establishing a fee for rental or usage of Magma Club

Deputy Town Manager Digirolamo explained he thought it was the wish of council to eventually rent the Magma Club facility for events. He said he was looking for some kind of guidance on renting this hall and discussed rental fees of the senior center and other buildings.

Council and staff made further comments.

MOTION:Council Member Gutierrez moved to table the item until they found out about the AC. Council Member Peralta seconded.

There were further questions and comments.

VOTE: The vote to table the item was unanimous of all present.

5. Blanket permit for Mary Romero fundraising (MOVED FROM CONSENT AGENDA)

Deputy Town Manager Digirolamo explained that the person for whom the fundraising was requested was opposed to it. The person had requested the blanket permit be moved to the business action section of the agenda.

MOTION: Councilmember Peralta moved to table the item.Council Member Tomerlin seconded.

VOTE: The motion carried unanimously of all council members present.

H. CALL TO THE PUBLIC

Curt Williams spoke regarding the setting of industrial sewage rates. He said something that has been evident for quite a while regarding their industrial sewage rates. They don't have a real water company. Waste treatment plants cost and in communities with a water company are based on the consumption of water. It shouldn't be just a rate for industrial/commercial and it is questionable whether it should be that for residential. He recommended they base their rate on water consumption like Miami. There is a flaw in the system.

He also commented on hearing a question about medical leave of absence, three audits to do, not having a starting figure, HURF and his pet peeve the wastewater treatment plant.

Manuel Ortega said the (mining) company is outside the city limits. They pay no property tax. They never wanted to pay school tax. They never wanted to pay any taxes. Now they want the sewer system. He told council to make it worthwhile, they control the sewer. The mine personnel do not live in Superior. He expressed concern over who the priority would be if the town ran out of water.He made further comments.

Mila Lira clarified that the mine has always paid school taxes. No matter where they are they are required to pay taxes. Resolution has never NOT supported the school district. So let's just get that straight, number one. Number 2 as a council she thought they had to look at not just the

mine but the entire economic development of the system and any type of economic development in your system and not be dependent on one company. And to bring that up in a public meeting that it is about one company is unfair. Yes, they all live in the desert and have to preserve water but as citizens they should all be doing the same thing. She made further comments.

I. EXECUTIVE SESSION:

The Town Council may or may not vote to go into Executive Session pursuant to ARS38-431.03(A-1) (A-3) & (A-7)

1. Executive session, pursuant to ARS 38-431.03(A)(3), for legal advice with the Town's Attorney regarding litigation with Dr. Wilt.

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

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

MOTION: Vice Mayor Lopez moved to go into executive session at 9:30 p.m. Council Member Tomerlin seconded.

VOTE: Mayor Hing recused himself from the vote and the executive session. The motion passed unanimously of all other council members and the mayor left the meeting room with the public.

Council voted to adjourn from executive session back to open session. A motion was made by Councilmember Tomerlin, seconded by Councilmember Tameron. The motion passed unanimously with the Mayor recused.

Council returned to open session at 10:04 p.m. Mayor Hing again took his seat with the council.

J. COUNCIL COMMENTS (Held Before Item I, Executive Session)

Council Member Peralta: N/A

Council Member Aguilar said he would just like to say that when they(council) ask questions and want to know some answers, whether they've been in the agenda or not, they're asking because these are just questions they want to clarify and that's their job. It's their job for their citizens. We keep getting asked these questions and that's why we ask. They want to clarify not only to themselves but to their citizens. He also apologized for not getting going on the air conditioner because he said he would. He has been so busy and it slipped his mind. He apologized to the staff and council and should have had it already done but he knows they can get it done.

Council Member Gutierrez concurred with Ms. Lira on the statement about economic development. Economic development is really a component when you look at growth and sustainability. Infrastructure is going to be a problem no matter what happens about the manager. Infrastructure is the basic issue. The infrastructure was actually built for the 40s and 50s, not for the 21st century. In the past six months the mine has been a partner that has contributed a tax base to community of over \$400,000. ... That's just in the last six months, going forward there is a possibility of another \$200,000. If it wasn't for that he thinksthey would be

like some of these other small communities going bankrupt. He totally disagrees with this figure that no mine employees live in Superior. He sees a lot of employees who work in the mine who live here. They actually choose to live in Superior so what he heard is not really true because he knows a lot of them live in Superior, not contractors, but employees of Resolution live in his neighborhood. Other than that, he had nothing to say, he said.

Council Member Tomerlin said he had a response to comments that he has received over the past few days. He was put up there to do a job. He will do his job. He will dig for facts. He will get any information he can. Like he said, he was put up there to do a job and he will do his job to the best of his abilities. That's all.

Council Member Tameron asked about the item on the agenda, the Call to the Public. Is there a reason why it is put on towards the end of the agenda?

Mayor Hing said the council had taken action to move that to that position. It was a couple of years ago.

Council Member Aguilar said it was 2003.

Mayor Hing said it was changed.

Council Member Tameron said he thought they could probably have more participation from the public if that would be put more toward the front of the agenda so they could come and say what they have to say and not have to wait until the very end to hear what we were going through.

Attorney Wencker explained that this was set forth in the town code. It actually did not have a location for the call to the public.

Council Member Tameron said in going back to Mr. Ortega that yes he did come to the mayor with that sewer line coming in. It was just discussion and he was well aware of it. He said had nothing further.

Attorney Wencker clarified an item in the code regarding the call to the public. The location is in the code.

Vice Mayor Lopez said she wanted to agree with Mr. Aguilar. Their questions for tonight were for clarification. Just getting the one bid in the packet made it a little bit difficult to see what other things were out there so they did have several questions. They apologize for taking so long but it was needed. Then if at one of their next meetings they could have the FLMA (Family and Medical Leave Act) put on the agenda so it could be explained to them and they could better understand the ins and outs of it, please.

Council Member Peralta said she had asked for this before but she really felt that each council member should have a copy of the town code.

Mayor Hing said it had been an interesting night. Going back to the issue with Resolution, he thinks that if nothing could be resolved, the worse scenario is that they don't tie into the

system. But he thinks they do have an opportunity to work with Resolution because of the fact that if they expand their operations, certainly a water treatment plant would have to be built. It would probably be in their best interests, just like Miami and Freeport, to run a joint project together so that if Resolution is looking at possibly putting a water treatment plant at their sewer, to him, it is a golden opportunity to work with the company to improve our system, as Mr. Williams is always criticizing the sewer plant operation, but an opportunity to enhance our own operation by having the company instead of building it on their site building it in the town of Superior and working with them. So he thinks there is a great possibility for some revenue streams from them continuously dealing with this issue. Again this will be brought to the council. Certainly much more information is going forth and to bring clarification, they will not tap in until the council sees the proposal.

He said to the deputy town manager that he knew there was an item that was posted for cancellation. He asked Attorney Wencker to address that because it was not on the agenda. Is there a possibility for cancellation or not? It is the August meeting that is cancelled.

Attorney Wencker said that apparently that was intended to be on the agenda and it didn't make it. But as he explained earlier when he was talking about the roles and duties of the various officers, one of the duties of the mayor is to call meetings. But one of the duties with that is the duty to cancel meetings if there is not going to be sufficient attendance or if there is no need to meet or something like that. So if you were to reset the schedule of the council, that is certainly something that would require notice and posting of agenda. But just the same as you can call meetings if you provide sufficient notice of it, you can also cancel meetings, even though it is not at the meeting or on the agenda or anything like that. Adjournment is generally the last item on the agenda but you can certainly choose the time at which you adjourn. You can say you're going to come back next week, provided that the town staff properly notices that next meeting. So there is some flexibility there. Does that answer your question, Mr. Mayor?

Mayor Hing said, "Yes." He said he knew there was an indication that several are headed for the League and so if that is preferred, he would hopefully get confirmed with those who are missing. Then if he feels that there are some critical items, they would move forward with a meeting. If not, he would probably call for a cancellation because he knew there was the annual League meeting.

Vice Mayor Lopez said that was not until the following week. It is at the end of the month.

Council Member Tomerlin said it was August 30.

Mayor Hing said that is fine. They would continue on their schedule and have a meeting

K. ADJOURNMENT

MOTION: Vice Mayor Lopez moved to adjourn at 10:05 p.m. Council Member Aguilar seconded.

VOTE: The vote to adjourn was unanimous of all present.

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 August 2011. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

Lou Digirolamo _____

Deputy Town Clerk/Police Chief

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 staff members of the Town of Superior.)