

**Town of Superior
Regular Council Meeting
Thursday, April 5, 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 7:10 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, Soyla "Kiki" Peralta, Mayor Jayme Valenzuela and Vice Mayor Olga Lopez; **Absent:** N/A

E. CONSENT AGENDA

1. Approval of Minutes for Work Session and Regular Meeting of March 15, 2015

MOTION: Council Member Peralta moved to approve the minutes for the work session and regular meeting of March 15. Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously.

F. REPORTS

N/A

G. COMMUNICATION

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

Closure of Fire Department Post Office Box 1932: Ms. Wentzel updated council on this closure and the amount of money saved.

The *Arizona Republic* article Sunday, March 25, 2012, "Budget errors hurt Surprise:" Ms. Wentzel called council's attention to the copy of this item provided in their packets.

It's Budget Time Materials from the League of Arizona Cities and Towns: Ms. Wentzel referenced the availability of these materials and the upcoming budget process.

Annual Salary & Benefit Survey from the League of Cities and Towns: Ms. Wentzel noted the availability of this information and the upcoming budget process.

Update regarding Audit for FYE 6/30/2010: Ms. Wentzel said the audit company would schedule a preliminary appointment on the audit. It is tax time for them. She is hopeful they can move quickly to get this done and then move on to the following year. Once they have this down and input in the system, they will have for the first time in three years a beginning balance so they can create a balance sheet, a profit and loss statement, a financial statement, so they can have some reports to look at and that is exciting to all of us.

26th Anniversary Easter in the Park Event: Ms. Wentzel gave information on the April 7th event and asked Parks and Recreation Director Barbara Arriola if she had additional comments. Ms. Arriola said she wanted to invite everyone to the event for the children because the children were the future and they needed to do things for them.

H. CALL TO THE PUBLIC

Sonnie Sansom: Said there is the rule of law and fair play. During the recall transparency and moving forward were promised. He applied for public information. He did not have it that day but was told it was forthcoming. There had not been one council meeting minutes posted at the website this year. He has been told that planning and zoning and building permits were not enforced before but starting three weeks ago he was told all regs would be enforced. He took a tour of the town last week and found six construction jobs with no posted permits. It appears nothing has changed. Re the opening bid on 85 High School, he contested that bid. The high bid was \$11,000. It was given to the bidder for \$9,000 because he said he would put a laundromat in. Laundromats aren't allowed in the town center so he did not know how they could justify giving that bid to that bidder. The town/taxpayer lost \$2,000. They are trying to get off-street parking and this would make a perfect off-street parking lot. He would like the attorneys to explain to the council the difference between a variance and spot zoning.

Sue Anderson: Reminded everybody about the April 14 Community Pride Day starting at the pool at 7 a.m., would love to see every council member there. Mayor Valenzuela has agreed to be head chef.

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

1. Discuss/Approve/Reject: Adopt a Fair Housing Proclamation in honor of Fair Housing month

Ms. Wentzel said this year is the 44th anniversary of the 1968 Fair Housing Act. National Fair Housing Month (April) celebrates the passage of the Act. She discussed the history of the Act and said staff recommended adopting the town's Fair Housing Proclamation.

MOTION: Council Member Tomerlin moved to approve the Fair Housing Proclamation in honor of Fair Housing Month. Council Member Tameron seconded.

Mayor Valenzuela read the Fair Housing Proclamation.

VOTE: The motion passed unanimously.

2. Presentation: Mr. Tom Novy, SRP Project Manager, will give a presentation regarding the Salt River Project Superior—Silver King 115kV Relocation Project

Mr. Novy introduced Janeen Rohovit of SRP who gave a history of SRP and then turned the floor over to Mr. Novy who presented a slide show regarding the 115kV line built in 1958. He said when they did a project they had to have a reason. They were approached by the large private property owner, Resolution Copper, as the line cuts across a large chunk of Resolution property. They approached SRP about moving one mile of the line approximately a quarter mile northwest. In current design, they plan to put it adjacent to existing line.

He pointed out key features on the map, including Superior, U.S. 60 and SRP lines. No other entity is being affected by the project as the segment of line is 100 percent on Resolution's property. They have not cut any corners on their outreach plan to public officials, special interest groups, stakeholders and the public. They have so far met with Rita Wentzel. They attempted to meet with Mayor Valenzuela but the coordination issue was tough and they were to meet him that night at the council, as well as the council. They have also met with the Pinal County Manager in Florence and Supervisor Pete Rios. They had sent out some agency letters and are in process of sending out the remainder. They are sending out a newsletter to the residents that Ms. Wentzel had indicated were in the bills and there was a stack available if they had not gotten one.

They also plan to hold a public open house and in talking with Ms. Wentzel they determined the best course would be to have two separate ones on the same day. The first one was at the senior center from 1:30 to 3:30 p.m. on April 17 and the exact same information at the high school on the same day from 6 to 8 p.m. He discussed the timeline of the project and completion of spring 2013. He noted the hard copies said 2014 and he apologized for that.

Council Member Aguilar verified that Superior is not served off of this line. Mr. Novy said Superior is not served off the line. It brings power from SRP facilities to the substation and they are served off the APS substation. Audience member Fred Miramon asked about road closures. Mr. Novy said to the best of his knowledge there would not be any.

Mayor Valenzuela said he was reading in the paperwork that this move was to accommodate rock storage from the underground mining. Bruce Richardson of Resolution said his understanding was yes. They will be storing rock coming out of their shaft for shaft development. That will be mineral bearing rock that will be stored until they have a concentrator and facilities and then they will use that so it is temporary.

Mayor Valenzuela asked for any other questions or comments. There being none, he thanked SRP for the presentation.

3. Discuss/Approve/Reject: Prepare and submit an application to the Arizona Department of Environmental Quality (ADEQ) to renew the Town of Superior Wastewater Treatment Plant's Arizona Pollution Discharge Elimination System (AZDES) Permit

Ms. Wentzel discussed an estimate that nationwide more than half the pollutants in creeks and lakes are transported by storm water runoff from impervious surfaces through storm drain systems and into lakes and creeks. These “nonpoint” pollutants included gasoline byproducts, oil, grease and heavy metals deposited by automobiles as well as industrial and chemical wastes and fertilizers running off lawns into storm drain systems. These pollutants threaten quality and usability of surface water resources. Control efforts are needed to reduce pollution sources and improve the quality of water discharged from storm drain systems. This is the purpose of the National Pollutant Discharge Elimination System (NPDES). NPDES Phase I permits were issued in the early 1990s to large municipalities with populations of more than 100,000. Phase II permits were issued in 2003 to smaller jurisdictions designated as urbanizing areas in order to fill in gaps left by the Phase I program and ensure the development of an effective statewide storm water management effort. Recently, the state of Arizona had received primacy for the federal NPDES program and is charged with implementing the program, which is now called AZPDES. The program requires Phase II municipalities to develop a Storm Water Management Program/Plan (SWMP).

Superior renewed its permit last in May 2007. Before she made a recommendation, Ms. Wentzel said she wanted to review the fees. She thought it was important for the council to understand the extent of the expenses. If they want to run a wastewater treatment plant they have to do this. There was a memo attached from Bob Hanus, who is their Class I operator consultant for the wastewater treatment plant. He did the two previous applications. She was there for the first one. They have only had two because that is all the time this Act has been in existence. Both applications he charged \$8,000 to do data gathering and application preparation. The application is large. It is no easy task and somebody has to know what they are doing in order to put that application together. It will require a \$2,500 application fee to ADEQ. It will require \$8,000 for Mr. Hanus to complete that application. That is probably a very fair price. She cited \$10,000 to \$12,000 preparation for that application in Kearny and other rural areas. Then ADEQ reviews the application at \$122 an hour and the estimate is, giving them the high side, \$20,000. That is not at all uncommon because she remembers the one they did in 2000, it was \$20,000 to review it. It is a pretty incredible process but they haven't had any problems with it in the past. She doesn't see any problems. It is just very costly to get it this done. It is renewable every five years and the total anticipated cost is \$30,500. She thought that was a reasonable estimate and hoped that was on the high side.

Having given them that information, she said the recommendation is to direct staff to contract with Mr. Bob Hanus, Western Environmental Technologies, Inc., to prepare the town's AZPDES renewal application for the wastewater treatment plant to ADEQ.

Vice Mayor Lopez asked where the money would come from to pay for this. Ms. Wentzel said the good news is she has been putting money aside. Their Bank of the West account exceeded \$100,000 as of the previous day. That is a combination of all the departments, all the funds, plus primary property tax just came in which is partly for the fire department and partly wastewater treatment, and \$35,000 of that primary property tax is in the bank for wastewater treatment. The money was there. It would be actually set aside. Ms. Lopez said, “Restricted monies.”

MOTION: Vice Mayor Lopez moved to approve the preparing and submittal of the application to the Arizona Department of Environmental Quality to renew the Town of Superior Wastewater Treatment Plant's Arizona Pollution Discharge Elimination System (AZDES) Permit. Council Member Tameron seconded.

Town Attorney Chris Wencker advised an addition to the motion regarding the authorization to spend the money or alternatively bring back to council for approval.

Vice Mayor Lopez added to her motion that they would direct staff not to exceed \$35,000 for this permit. Council Member Tameron seconded.

VOTE: The motion passed unanimously.

4. Discuss/Approve/Reject: Fulfillment of verbal contract with Mr. Jesse Baltierra for sound system equipment purchase and set-up

Ms. Wentzel said that on October 1, 2009, the town entered into a verbal two-year contract with Mr. Baltierra for assistance with their meeting sound system. The agreement was to purchase two identical systems, one for the town and one for Mr. Baltierra, to be used for town meetings and special events. The purchase was made by the town's credit card on December 8, 2009. Further, it was agreed that the town would pay Mr. Baltierra to set up the town's equipment for each town council meeting and designated special event at the cost of \$50 per occurrence and that the overall bill would be reduced by the purchase price of the equipment at \$1,500. Even though the verbal contract expired October 30, 2011, Mr. Baltierra continued to provide sound system assistance through January 20, 2012.

She said they could not find any agreement or meeting minutes supporting this verbal agreement and if there was a written contract, Mr. Baltierra was not given a copy. Mr. Baltierra does have the equipment purchased for him and one of the speaker stands was broken while in the senior center and he would like it replaced.

Ms. Wentzel said the recommendation is to direct staff to pay out the verbal contract with Mr. Jesse Baltierra in the amount of \$4,299 and provide written termination of that agreement.

Council Member Aguilar asked if they could really give town property to someone. Ms. Wentzel said she would defer to legal counsel. She said it was a good question. Mr. Aguilar said if it is town property, doesn't it have to be auctioned or sold. How does that work?

Attorney Wencker said he would be more than happy to give them a very full, complete explanation in an executive session. But the short answer that he can give them in open session is that it depends on what the specifics of that agreement, which apparently were verbal, are. From the way it was presented, it appears as though it is not necessarily the town's equipment. He was not entirely sure as he has not had a chance to speak to Mr. Baltierra. But the short answer to the question is, yes, if it is town property, it could be sold. He asked if that answered Mr. Aguilar's question. Mr. Aguilar said yes and if it is his equipment, actually, all they owe him for is the time. Attorney Wencker said if Mr. Aguilar

looked at the breakdown, there is a reduction for the equipment purchased. It is really a wash. It is \$3,500 for the council meetings plus \$750 for special events. From his understanding reading over these figures, they are not paying him for the equipment. Council Member Gutierrez said they had a choice. They could pay him \$5,436.50 and be done with it and get the equipment back. That would be one option. But he sees the equipment as kind of a reduction of Mr. Baltierra's cost. Attorney Wencker said he did not have all the information on this that Ms. Wentzel does, but he saw Mr. Gutierrez' assessment as correct.

MOTION: Council Member Peralta moved to table until they could get more information. Council Member Tomerlin seconded.

Mr. Gutierrez said he thought they should just make a decision. He did not support tabling it. He thought they should just make a decision and move forward. Mr. Tameron said he would like to hear what the attorney had to say about contribution of public funds before they decided to give it away. Mr. Gutierrez said they were not giving it away. Ms. Lopez said she would like to hear. Attorney Wencker said that verbal agreements can be enforceable. Mr. Tameron asked if they could ask Mr. Baltierra to be there at the next meeting to discuss this. Attorney Wencker said, "Of course." Mr. Tameron said this was before his time so he'd like to hear. Ms. Lopez said it was in her time and she did not even know about it. Mr. Tomerlin said it should be placed on the next executive session for legal advice.

VOTE: The motion passed 6-1, with Council Member Gutierrez opposed.

5. Discuss/Approve/Reject: Closure of Main Street on April 16, 2012 for the Superior Little League Parade

Ms. Wentzel said April 16, 2012 is the Superior Little League's Closing Day for T-Ball and Opening Day for Major League. As in the past, they would like to hold a parade to celebrate another exciting year. They would like to have a police escort as well as Main Street closure from Magma to Church during the parade—4 to 4:30 p.m. Staff recommended council approve the closure of Main Street from Magma Avenue to Church and a police escort on April 16, 2012 from 4 to 4:30 p.m. for the Annual Little League Parade.

MOTION: Council Member Tomerlin moved to approve the closure of Main Street on April 16, 2012 for the Superior Little League Parade and follow staff recommendation as listed. Vice Mayor Lopez seconded.

Mayor Valenzuela asked a Little League representative, Armida Denogean in audience if she had anything to add. She briefly updated the council on the Little League season and the mayor thanked her.

VOTE: The motion passed unanimously.

J. EXECUTIVE SESSION

The Town Council may or may not vote to go into Executive Session pursuant to ARS 380-431.03 (A-1), A-3) & (A-7)

1. A-1—PERSONNEL
2. A-3—LEGAL ADVICE WITH ATTORNEY: Discussion or consultation for legal advice with attorney or attorneys of the Town regarding: erection of a sign at the Superior High School and an appeal or other action regarding the court’s ruling in litigation involving Dr. Wilt.
3. A-7—LEGAL ADVICE WITH ATTORNEY REGARDING SALE, LEASE OR PURCHASE OF REAL PROPERTY: Discussion or consultation for legal advice with attorney or attorneys of the Town regarding: 85 N. High School Avenue and 679/681 W. Main Street

MOTION: Council Member Tomerlin moved to enter executive session and Vice Mayor Lopez seconded. **VOTE:** The motion passed unanimously. Council entered executive session at 8: 18 p.m. and returned to open session at 9:08 p.m.

K. COUNCIL COMMENTS (Held Prior to Item J)

Council Member Peralta: No comment.

Council Member Aguilar: Was approached on items spoken of in public comments. He had spoken with Fire Operations Chief Todd Pryor who said all of them had permits but had just not put them up. Correct? Chief Pryor said the county came out and required them to put up the permits. Some of the permits are pending but it takes 7-10 days and they are in process. Mr. Aguilar said he understood they are supposed to get these permits prior to starting. It is hard for the council with a lot of them working to see every little thing that is going on out there but they are making a valiant effort. They are trying to make sure business gets done. When you come to them, they are going to try and find out. It is always “why, why, why.” It seems to be a town of whys instead of how can they make things work, how can they make them a team and work together. It takes not only the council but citizens. That is why he thinks it important that they communicate. Just come to them, ask them, talk to them. They are going to do everything in their power to make things work for the town. Because, it is not about him, it is not about this council, it is not about you, it is about this town. They have to make sure that this town goes as smoothly as possible and does the things it needs to do. He loves this town and there is nothing he won’t do for it. They are all volunteers up there. Why? You can’t say they do it for the money. He laughs when his son says, “Dad are you serious? That is what you guys get a month?” He says yes. His son says, “You’re in charge of the town?” He says yes and his son asks why he does it. He says it is because he loves Superior. They can work as a team and make it go smoothly.

Council Member Gutierrez: Thanked the police department for fine police work in the last couple of weeks, especially in one day when they had two armed robberies in Superior. Referencing the Circle K robbery, he said by 8 a.m. he was hearing how inept the police department was. He stood up for their police department because he thought they had one of the finest police departments they could possibly get for a small community like theirs. He said he told people he would be surprised if those perpetrators were not in custody within hours. That was exactly what happened. Within a few hours they had three of the suspects and within

36 hours they had the fourth one. That is good police work. That guy learned that the reach of their police department was long. The reason it is long is that Lieutenant Campbell and Chief Lou and some of the officers have a vast network. You cannot hide from their police department. So within 36 hours they had all four perpetrators. He thinks the deal with the bank robbery was that these men were robbing banks within Pinal County. He looks at the crime report and it looks like it is increasing and he is not sure why, maybe spring time. He has no idea but he knows their police department is very effective. One of the things that they have to look at as a community, and he knows there have been comments made in the past, this is not the police department they had before Chief Lou showed up. If they continue to make comments on how ineffective their police department or their fire department is it does not bode well. They may say that in jest but people outside the community take that seriously. He does not feel that way. He knows most of the council members don't feel that way. They have a very effective police force and fire department. The other thing is there have been a rash of accidents on the highways and that is just due to the attractiveness of their area. The more the population grows in the Valley, the more they are going to have. They are on the map. The highway is becoming a little bit more precarious so they all have to be careful about that. They do have rush hour there. He expressed thankfulness they have Redflex. He noted that the Community Pride clean-up was a big deal and does make a difference.

Council Member Tomerlin: No comment.

Council Member Tameron: No comment.

Vice Mayor Lopez: Noted Barbara Arriola had mentioned the Easter Egg Hunt but they did need volunteers to come out because it gets pretty busy. So if anyone had some time and since the mayor will be there cooking, she thought the rest of them could give an hour or two for their kids. Re the Little League parade, she knew it was a big event for them. T-Ball is already over and those little kids are so cute to watch run around and now the big guys are coming up so hope everyone is out there because they do need support. She wanted to wish everyone a happy and safe Easter. Also, to the PD, she said they had done a great job and were appreciated.

Mayor Valenzuela: Thanked all of the town staff for the past four months that is hard for a lot of people. Change is hard, but they are on the right track. The council is united as one and they all know what is going on. Don't believe what you read in the paper. He challenged anyone out there to ask any one of those council members if they don't know what is going on. This is a very informed council, a very active council now. He commended their staff. Yes, they have had some changes and they are dealing with them but they are moving forward. He also wanted to go out and support the Little League program. It is a great program. It is the biggest recreation program they have in the community so let's get out and support the kids, also support the Easter Egg Hunt on Saturday. The other thing he would like on the next agenda, in speaking with what the police force does now, yes they do a commendable job. But as a council they need to assist them. He thinks council is making it easier for the thieves in the town by continuing to let the landfill operate. He wanted that placed on the next agenda.

L. FUTURE AGENDA ITEMS

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

Ms. Wentzel said she would send council members communication asking for available dates to schedule these sessions.

M. ADJOURNMENT

MOTION: Council Member Tomerlin moved to adjourn. Council Member Peralta seconded.

VOTE: The motion passed unanimously. Mayor Valenzuela adjourned the meeting at 9:09 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 5th day of April, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

/s/

Rita M. Wentzel, Interim Town Clerk

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.