

**TOWN OF SUPERIOR**  
**Regular Council Meeting**  
**Thursday, May 19, 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 7:01pm.

**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 a brief word of prayer.

**D. ROLL CALL:**

**Council Present:** Councilmember Gutierrez, Councilmember Tomerlin, Councilmember Aguilar, Councilmember Peralta, Vice Mayor Lopez & Mayor Hing

**Absent:** Councilmember Heglie

**E. CONSENT AGENDA:** *Mayor Hing introduced the items on the consent agenda. He asked for any comments, questions or suggestions in regards to each item on the consent agenda.*

**1. Approval of Minutes Regular Meeting May 5, 2011, April 21, 2011 and the work session of April 30, 2011 & May 5, 2011**

Vice Mayor Lopez commented that there was still a misspelling of the word weather in the consent agenda for April 21 as it should read whether. She also commented that there were many mistakes from the work session on April 30<sup>th</sup>. She stated that it lists Councilmember Aguilar as absent, that Ms. Campos was listed as Josie Lopez, and that there were several comments that were made by both she and Councilmember Gutierrez that were not included in the minutes. She stated that she does not expect to see a verbatim report in the minutes but does want to see the meeting recorded in a way that reflects all the discussion that occurs during the meeting.

**2. Blanket Permit for the Family Life Christian Center to Fundraise**

There were no questions or discussions on this consent agenda item.

**3. Disbursement for the month of March 2011**

Councilmember Gutierrez requested more information on many disbursements made in April 2011. He requested more information on the following disbursements and Ms. Oliver provided additional information:

**Jonovich:** \$16,710.00, Ms. Oliver explained that this payment was for work done to the rake at the Waste Water Treatment Plant when it went down, pumping and hauling sludge. Discussion also followed on the Jonovich invoice regarding if a bid was taken on these services. Ms. Oliver explained that this was emergency work that needed to be done but staff did get another estimate from another company before starting work with Jonovich.

**Red Flex:** Councilmember Gutierrez asked why there was funds paid to Red Flex and if this program was costing the town money. Chief Digirolamo explained that the Town has to pay Red Flex a percentage of the ticket fees collected in order to cover the operation of the cameras and program.

**Southwest Towing:** \$4,000 Councilmember Gutierrez asked what was the town towing that this bill was so high. Ms. Oliver explained that this company also does vehicle repair work for the Town and Police Department and that part of this bill was catching up with previous invoices.

**Miracle Executive Services:** \$1300.00 Councilmember Gutierrez asked what was this amount was for. Ms. Oliver explained that that months invoice covered minute taking, trail coordination, and the planning and execution of the Caboose Visitor Center celebration and opening.

**Jed Lant:** \$4,151.00, Mrs. Oliver reported that Mr. Lant covered some expenses for the Magma club with his personal funds and this was a reimbursement to him. She stated that he purchased the paint because it was needed in an immediate time frame to meet certain deadlines. She thanked Mr. Lant for providing his financial resources to complete the project.

**Internal Revenue Service:** \$15,000, Councilmember Peralta asked for a breakdown of what has been paid to the IRS and what the total bill was to the IRS. Ms. Oliver explained that the \$15,000 paid each month is the Town's cost of the employees taxes that have to be paid. Discussion followed that the total amount owed to the IRS was \$114,000 and payments have been paid. The Council directed staff to provide a breakdown of the total balance, payments and current amount owed.

**American Charter Bank:** Councilmember Gutierrez asked what this company was. Ms. Oliver explained that is who handles the employee health savings accounts.

Mayor Hing asked for any further questions about the consent agenda. No further discussion occurred. He also asked the any motion made to approve the consent agenda state that the Mayor excused himself from approving checks to his business and reflect the changes to the minutes from 4/21.

**MOTION:** Vice Mayor Lopez made a motion to approve the consent agenda, excusing the Mayor from approving any disbursements to his business, and accepting the minutes from the meetings and work sessions of 4/21/2011, & 5/5/2011 with the spelling corrections, and request that work session minutes from 4/30/2011 be revised and returned to the Council for Approval. Councilmember Tomerlin seconded the motion.

**VOTE:** *The motion was approve unanimously.*

## **F. COMMUNICATION:**

### **1. Managers Report**

**a. Magma Club** – John Christensen reported that all the work for the grant portion of the Magma Club has been completed. He thanked the council and the staff for allowing him to work on the project. He identified other projects that will need to be worked on at the Magma Club, including outdoor grading and landscaping, installation of heat pumps and insulation. He also explained that there will need to be an ongoing maintenance plan and stated that the installation of the heat pumps will be done through the energy efficiency grant. Ms. Oliver congratulated staff for working on this project and also reported that the timelines were met and Superior is still eligible for their next round of CDBG funding. Councilmember Aguilar asked about the rebates for the heat pumps and energy efficiency, he stated that he would check with his employer Southwest Gas to see if they had any programs to also help with the energy efficiency. Mr. Lant also thanked everyone for coming out and helping with the painting and other jobs so the deadlines would be met.

**b. Town Hall Relocation** – Ms. Oliver reported that staff is now moved into the Roosevelt and is operating there. She stated that staff is excited to be there and have more room. Mr. Christenson reported on the roof project. He stated that the roof is not in as bad of shape as they originally thought. He explained that they will be putting a coating on it that will preserve the roof for 4 to 5 years. He stated the cost to coat the roof is around \$6,000 and it properly maintained this will keep the roof in good condition.

Mr. Lant reported that the outside area is being spruced up and the graffiti has been removed. Councilmember Gutierrez commented on the big pine tree that is growing near the office, he encouraged staff to look at possibly trimming the tree so it won't destroy the roof should it break in a storm. He reminded staff that safety has to come first and they may need special equipment to make the necessary trimming to the tree.

Councilmember Peralta asked for more information on the purchasing of new furniture. Ms. Oliver reported that new furniture had to be purchased for the employees who are highly affected by the mold because some of the furniture the

town owned was particle board and could not be cleaned from the mold adequately to prevent future illness. She stated that they have not spent more than \$700.00 on the new furniture. Discussion followed on the sale of the old furniture.

**c. Cemetery Policy Update** – Ms. Oliver reported that staff and the council have hosted two work sessions and many ideas and policies were discussed. She encouraged the public to contact staff if they have suggestions or questions and invited them to the next work session at 5pm on June 2, 2011.

**d. Resolution Copper Land Exchange update** – Mayor Hing read a letter from Jon Cherry at Resolution Copper regarding the introduction of the Land Exchange Bill into the US House of Representatives.

**e. Town Manager and Chief/Deputy Town Manager evaluation and goals** – Ms. Oliver and Chief Digirolamo read their list of goals and objectives for the coming year to the council and audience. Those items included improving team work, citizen services, accounting procedures, completion of the audit, return of the chief to a full time public safety director, improve communications between the Police and Fire Departments, and reduce crime statistics. Vice Mayor Lopez thanked them for their presentation but asked that their list of goals and objectives be given to the council in a hard copy. Mayor Hing asked that staff provide that as soon as possible.

**f. Mayor's Update reference FBI Letter/Fraud with Town's Bank of the West Account**  
Mayor Hing explained that there have been some comments from the public expressing concern that the FBI never investigated the funds that were taken from the Town's bank account at the Bank of the West a few years ago. Mayor Hing explained that a letter was sent to Chief Digirolamo regarding the investigation that they had done. He read the letter and the disclaimer that is on the letter. In summary the letter thanks the town for their cooperation with the overall investigation and states that this is a nationwide investigation of these types of bank fraud. The letter was written from an FBI agent. Mayor Hing went on to read the disclaimer that is on the letter. In summary the disclaimer on the letter says that the letter is to the Town for their investigation and is not to be copied or shared outside of the town and is not for public view.

**g. Medical Marijuana**

Ms. Oliver stated that the Council packet includes a code update regarding medical marijuana. She stated these are model codes that are being provided by the League of Arizona Cities and Towns. She recommended to the council that choosing an attorney right away is important so they can provide guidance to the town on this code issue.

**2. Finance Report/Revenue and Accounts Payable – Nicole Welty**

Ms. Welty answered questions from the Council regarding the finance report and accounts payable. Councilmember Gutierrez asked why there are still invoices showing for the Central Arizona Project. She explained that software does not allow staff to delete an invoice so that is why they still see it in there but they town has no further financial obligation to the CAP. Discussion followed on some invoices that had not been paid to vendors, and the Red Flex payments.

Vice Mayor Lopez expressed her concern that it is still difficult to tell what bills are still owed and what is paid. She stated that she would like to see a listing of just the bills that are still owed. Ms. Oliver stated that staff will look at ways to make this report easier to read but cautioned that they are trying to avoid creating these reports in Excel or programs outside of the software because it is easy to make mistakes when re entering data.

Councilmembers Gutierrez and Aguilar expressed concerns that with the current cash flow and financial obligations there is not enough revenue to cover the expenses. Councilmember Gutierrez further mentioned that without the Resolution One Time Funds there would not be enough cash to cover expenses and when you subtract those funds the town is currently \$78,000 in the negative. Ms. Welty explained that with the completion of the Magma Club there are many expenses that were paid that are currently waiting on reimbursement and those funds will be added back into the accounts.

**3. Fire Department update on financing for replacement ambulance – Chief Todd Pryor**

Chief Pryor explained that the application for financing an ambulance has been submitted, and is currently still in process. He stated that they have an offer to purchase the old ambulance and those funds can be applied to the financing of a new ambulance which will allow the town to not have to make finance payments for two years.

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

**1. Council Interviews and Presentation by Town Attorney Applicants:**

**a. Mariscal, Weeks, McIntyre & Friedlander P.A.**

Gary L. Birnbaum from this firm gave a brief presentation on their firm. He explained that he had personally been with the firm for 25 years. He gave a few highlights explaining that their firm was listed as the 10<sup>th</sup> or 11<sup>th</sup> largest firm in the State and had received numerous awards and recognitions for their services. He listed the many cities and towns that the firm currently serves and stated that they have over 57 attorneys on staff that can assist with varied legal issues from environmental, eminent domain, and other municipal needs. He also reviewed some of the higher profile government projects they worked on such as the Spur Cross Ranch Conservation District, Bank One Ballpark land acquisition.

Councilmember Peralta asked how they would plan on keeping the council in the loop she expressed some concern that information is not flowing to the entire council. He stated that they essentially work for the council and they would develop a

communication strategy that would work for this community. He stated in most cases things are communicated to the Manager first and then to the council by the Manager but that things could be modified as needed.

Councilmember Gutierrez stated that it would be good if the entire groups of attorney's presenting tonight try to include these questions into their presentation he also commented that Superior is currently going through a cultural/paradigm shift and that he sees things as black or white when it comes to the law. He referenced issues with the Open Meeting Law and asked how their firms could serve a community of this size. The representative stated that they would provide open meeting law training for the public, staff and council as needed and they are accustomed to working with rural communities he referenced the town of Cave Creek who has many special rural ordinances such as a dark sky ordinances, no curbs or gutters, horses right of way, he stated he didn't see Superior being much different.

**b. Dimilanta Clark, LLP**

Chris Wencker from this firm explained that the firm is based in California and is expanding its firm to Arizona. He stated that at this time he is the only attorney for this firm but he has municipal experience from the previous law firm he worked with in Tucson. He gave a presentation on his education and back ground and listed his municipal and governmental background including working for the Town of Patagonia, Pima Association of Governments, Towns of Marana and Sahuarita. He stated that he still provides criminal prosecution services for Sahuarita and Marana. He stated that the firm does not represent any other municipalities in Arizona. He stated that he has researched the Town by reading the minutes and news reports so he is getting familiar with some of the needs and problems faced by the Town. He said that ultimately the client was the Town and he would communicate and provide reports to the Manager and Council on an ongoing basis.

He also recommended to the council that when communities contract attorneys they should avoid contracting attorneys that serve other nearby communities because at times these communities may have conflicts and need unbiased representation. He also stated that with their firm they would not have to worry about communications breaking down because they have involved so many attorneys or staff people.

**c. Law Office of Chad D. Niven**

Chad Niven presented on behalf of his firm. He explained that he has always operated his own practice since passing the bar exam. He stated that he has varied experience and he could also help the town to expand their magistrate court. He listed his governmental/municipal experience stating that he has assisted the Town of Cave Creek and Paradise Valley. He stated that if selected he would want to take part in the community and create a long lasting relationship with the firm and the town. He said he would have direct communication with the Town Manager and the Council.

This concluded the interview and open meeting process. Ms. Oliver requested the council make a motion to go into executive session to further discuss hiring one of the firms.

**ACTION:** Councilmember Tomerlin to move into executive session. Councilmember Peralta seconded the motion.

**VOTE:** *The motion passed unanimously. The Council adjourned the public session at 8:44pm/*

**At 10:03pm Mayor Hing returned the council to public session and requested action from the Executive Session.**

**MOTION:** Councilmember Gutierrez made a motion to hire Mariscal, Weeks, McIntyre & Friedlander P.A. Mayor Hing called for a second to the motion.

**ACTION:** The motion died for a lack of a second.

**MOTION:** Vice Mayor Lopez made a motion to hire both Dimilanta Clark, LLP & Chad D. Niven at a negotiated rate. Councilmember Aguilar seconded the motion.

**ACTION:** The motion passed with 4 aye votes, 1 nay vote, and 1 abstention.

**Ayes:** Vice Mayor Lopez, & Councilmember's Tomerlin, Aguilar & Peralta

**Nays:** Councilmember Gutierrez

**Abstain:** Mayor Hing

Mayor Hing explained that he abstained in the event that there was a need for a tie breaking vote.

**Mayor Hing apologized to the other presenters who are on the agenda who waited though the executive session. He asked the council for a motion to move agenda item #8 to item #2 to allow those from out of Town to not have to wait any longer.**

**MOTION:** Vice Mayor Lopez made a motion to move agenda item #8 to item #2. Councilmember Tomerlin seconded the motion.

**ACTION:** *The motion passed unanimously.*

**2. Discuss/Approve/Reject the bids for dispatch console unit to be installed at the Public Safety Communications Building at 734 W. Main St.**

Chief Pryor explained that the town had received a homeland security grant to purchase a new communications/dispatch console. He stated that they received two bids and recommended to the council the approval of the Canyon State bid. He stated that this system will be a desktop system that will have a laptop backup system. Discussion followed on the types of

systems between analog and digital systems. Chief Pryor explained that is something different and affects the radios used.

***Councilmember Aguilar left the meeting at 10:09pm.***

**ACTION:** Councilmember Tomerlin made a motion to approve the bid from Canyon State Wireless. Vice Mayor Lopez seconded the motion.

**VOTE:** *The motion passed unanimously.*

- 3. Discuss/Approve/Reject Resolution Number 519 of the Mayor and Town Council of the Town of Superior, Pinal County, Arizona agreeing to accept grant funding from the Gila River Indian Community to purchase a brush fire suppression truck.**

Chief Pryor explained that this resolution was a requirement of the grant application. He stated that staff was applying for a grant to purchase a fire suppression truck and the town has not yet been approved. Mayor Hing read the resolution title.

**ACTION:** Vice Mayor Lopez made a motion to approve Resolution 519. Councilmember Peralta seconded the motion.

**VOTE:** *The motion passed unanimously.*

- 4. Discuss/Approve/Reject Resolution Number 520 of the Mayor and Town Council of the Town of Superior, Pinal County, Arizona requesting that the reconstruction (widening) of U.S. 60 in the Silver King and Superior Streets section be retained in the Arizona Department of Transportation (ADOT) work plan for Fiscal Year 2013**

Mayor Hing read the resolution by title. He explained that the town received notification that the widening of US 60 through Superior project originally slated for 2013 has been moved to 2016. He stated that if approved he will be presenting this resolution to the State Transportation Board the next day in Flagstaff. He stated that this resolution asks ADOT to keep this project in the 2013 list of projects. He also stated that Resolution Copper also provided a letter of support regarding this request and that Pinal County, Gila County and Globe and Miami also passed a resolution requesting that the widening stay on the 2013 project list.

**MOTION:** Councilmember Tomerlin made a motion to approve Resolution 520. Vice Mayor Lopez seconded the motion.

**ACTION:** *The motion passed unanimously.*

- 5. Discuss/Approve/Reject IGA with Pinal County for a grant for street signs**

Mr. Lant requested approval of an IGA with Pinal County to provide street signs. He stated that the funding was coming from a Governors highway Safety grant and would provide the town with \$50,000 for street signs. Mayor Hing commented that Mr. Lant was the first in the CAAG region to submit his completed inventory submitted. Congratulations were shared by the Council.

**MOTION:** Councilmember Tomerlin made a motion to approve the IGA with Pinal County. Vice Mayor Lopez seconded the motion.

**ACTION:** The motion passed unanimously.

**6. Discuss/Approve/Reject the Council appointment of a Town Attorney**

This item was voted on and discussed immediately following the executive session.

**7. Discuss/Approve/Reject Letter of Support to keep the Superior ADOT fueling station open**

Mayor Hing explained that there was a rumor that the ADOT fueling station may be closed here in Superior. Chief Digirolamo stated that staff heard that ADOT staff may be moved to the Globe office but it looks like the fueling station would remain open. Mayor Hing stated that they wanted to provide a letter of support to keep the fueling station open because the Town is allowed use the fueling station which provides a discount on fuel.

**MOTION:** Councilmember Tomerlin made a motion to provide a letter of support to keep the ADOT fueling station open. Councilmember Peralta seconded the motion.

**ACTION:** *The motion passed unanimously.*

**8. Discuss/Approve/Reject the bids for the purchase of the following properties**

Chief Digirolamo asked the council how they wanted to go through the bids and vote. They requested to review the bids for each property and vote on each property individually.

**a.85 High School Ave: Minimum Bid Requested \$7,500**

**1. Bid 1 - \$5,000 Cash**

Purpose: Fix the house and live in the house. Would use the property to provide masonry services businesses. Currently holds a local business license.

**2. Bid 2 - \$8,100 Cash**

Purpose: Demolish house, and grade lot within 6 months of closing.

**3. Bid 3 - \$9,000 Cash**

Purpose: Tear down house and construct new building for a Laundromat and ice/water operation. No time line listed.

**4. Bid 4 - \$9,000 Cash**

Purpose: Plans to remodel home to live in, add a workshop/mechanical shop. Timeline is to start remodel immediately.

**5. Bid 5 - \$11,000 Cash**

Purpose: Would remodel immediately to have a family member move into the home.

**MOTION:** Councilmember Peralta made a motion to approve the bid number 3 for \$9,000 which would be constructing a Laundromat and Ice Store. She stated that this bid would allow the town to generate additional tax revenue.

Questions followed on the time frame of the improvements. Chief Digirolamo explained that the time frame for construction/improvements will be added into the contract.

Councilmember Peralta modified her motion to include demolish of the house within 3 months.

**FINAL MOTION:** Councilmember Peralta made a motion to accept bid number 3 for \$9,000 demolishing the home within 3 months of sale and constructing a Laundromat and Ice/Water Store. Councilmember Tomerlin seconded the motion.

**ACTION:** *The motion was approved unanimously.*

**b.679 W. Main St.**

Chief Digirolamo explained that there were no bids on this property. He stated that the council will have to vote at a future meeting to put another request for bid or adjust the bid.

**ACTION:** *No action was taken.*

**c. 308 Mine St. – Minimum Bid: \$7,500**

Chief Digirolamo explained that there was only one bid for this property. The bid was for \$8,750 cash and the person intends to remodel the home and use it as a seasonal home.

**ACTION:** Councilmember Peralta made a motion to accept the bid. Vice Mayor Lopez seconded the motion.

**MOTION:** *The motion was approved unanimously*

**d.Industrial Lot #3**

Chief Digirolamo explained that there were no bids on this property. He stated that the council will have to vote at a future meeting to put another request for bid or adjust the bid.

**ACTION:** *No action was taken.*

**e.125 W. Main St. – Minimum bid \$45,000**

Chief Digirolamo reported that there was only one bid for this property. He stated that the purchase would be paid by a wire transfer. He read the bid proposal which stated that the bidder plans on remodeling the property to become a theatre and be used for meeting/entertainment space for the Magma Hotel when it is completed. The bid listed several timeframe requirements including the market need/analysis for a theatre, movie rights, and several other parameters. Chief Digirolamo explained that there was a lot of legal jargon with this bid and suggested the council table the bid until the Attorney can review the bid.

**MOTION:** Vice Mayor Lopez made a motion to table this bid until the Attorney can review it. Councilmember Tomerlin seconded the motion.

**ACTION:** *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.

**There were no comments from the public.**

**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).

**1. Discussion of Town Attorney Applicants.**

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**

Absent

**2. Councilmember Peralta**

Councilmember Peralta thanked all of her supporters. She also thanked Mayor Hing for writing that letter of support as she believes that is what helped her in this election.

**3. Councilmember Gutierrez**

Councilmember Gutierrez congratulated Councilmember Peralta for her successful runoff election.

**4. Councilmember Tomerlin**

Councilmember Tomerlin congratulated Ms. Peralta on her recent council election.

**5. Councilmember Heglie**

Absent

**6. Vice Mayor Lopez**

Vice Mayor Lopez congratulated Councilmember Peralta for her victory. She also reminded everyone that it was EMT week and she expressed much appreciation for the local EMTs who keep the community safe.

She invited everyone to attend a meeting with the Kennecott Lands Group meeting on June 9<sup>th</sup> at 6pm. She stated the meeting will be held at the Roosevelt Auditorium.

**7. Mayor Hing**

Mayor Hing congratulated Ms. Peralta on her re-election to the council. He also thanked and commended the Superior Fire Department for their quick response to the Picket Fire. He

stated that the town was able to move quickly to provide support as needed and were prepared if there had been any other local emergencies while our crews were fighting the Picket Fire.

He reminded staff to post for a quorum for the BHP Cleanup meeting on 5/31 and also for the Kennecott Lands Meeting on 6/9. He reminded the council of the upcoming budget work session on 5/21 from 8-12 and thanked the council for their time.

**ADJOURNMENT:**

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

***VOTE: The motion was approved unanimously and the meeting adjourned at 10:45 pm***

**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 19<sup>th</sup> day of May 2011. I further certify that the meeting was duly called and held and that a quorum was present.

Melanie Oliver\_\_\_\_\_

Melanie Oliver  
Town Clerk/Manager

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These Minutes were compiled and transcribed by  
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\*Final editing of these minutes and their content is completed and verified by staff members of the Town of Superior.