



**AGENDA  
TOWN OF SUPERIOR  
BOARD OF TRUSTEES  
MARCH 14, 2011  
7:00 PM**

**BOARD CHAMBERS, TOWN HALL**

- 1) Call to Order Regular Meeting of the Town of Superior Board of Trustees (7:00)
- 2) Calling of the Roll
- 3) Approval of Agenda
- 4) Reports, Questions & Issues (7:05)
  - A. Mayor and Board Members
  - B. Manager
  - C. Attorney
  - D. Clerk
- 5) Public comment on Consent Agenda and Non-Agenda Items (limit 5 min./person) (7:35)

<ol style="list-style-type: none"><li>a) <b>Speakers shall wait to be recognized by the Mayor</b></li><li>b) <b>speakers shall address the Town Board as a whole</b></li><li>c) <b>speakers shall provide their name and place of residence for the public record</b></li><li>d) <b>speakers shall limit their comments to a maximum of five minutes</b></li><li>e) <b>speakers shall refrain from personal attacks</b></li><li>f) <b>speakers shall provide ten copies of any exhibits to the Town Clerk</b></li><li>g) <b>the Mayor shall decide whether a response to the question or comment is appropriate; or may thank the speaker for their question or comment</b></li><li>h) <b>if a response is deemed appropriate, the Mayor may respond on behalf of the Town Board or refer the matter to the Town Manager</b></li><li>i) <b>if a response is to be made at a later time, the respondent (i.e. Mayor, Manager or staff) shall bring the matter back to the Town Board for closure</b></li></ol>
---
- 6) Presentations
  - A. Proclamation for Arbor Day (7:45)
- 7) Consent Agenda (7:50)
  - A. Approval of the minutes of the February 28, 2011 Board of Trustees meeting
  - B. Approval of a Liquor License renewal for Superior Liquor Market, LLC
    - Every year, each liquor license holder has to renew their liquor license for the next 12 months

C. Adoption of a Resolution approving a Letter Agreement with Gablehouse, Calkins & Granberg, LLC for Legal Services

- Letter of agreement for legal services as special counsel for the Town by the firm Gablehouse Calkins & Granberg, LLC, regarding the Jefferson Parkway issue

8) Adoption of a Resolution approving an Intergovernmental Agreement with Boulder County regarding construction and maintenance of the Coalton Trailhead and Trail (7:55)

- The Town Board approved an IGA with Boulder County in 2010 for the construction and maintenance of the Coalton Trailhead. Boulder County also developed in conjunction with the trailhead project a new multi-use trail connection between the Mayhoffer Singletree Trail and the Coalton Trail. This agenda item is the consideration of an amended version of the IGA to include this new trail section. The Town's responsibilities include the day-to-day maintenance of the trailhead facility and minor repairs, and the County is responsible for major repairs and replacement. The County will maintain the trail, enforce County rules and regulations on the trail through the Arsenault property. Major repairs or improvements to this section of the trail will be reviewed and cost-shared as mutually agreed upon by the Town and the County.

9) Preliminary approval of an Ordinance amending Chapter 1 of the Superior Municipal Code (8:10)

- Changes to Chapter 1 that are not substantive, and either eliminate language that is redundant within the Code or otherwise stipulated in State Statutes

10) Adjourn the meeting (8:20)



## ITEM NO. 6A

### INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

**AGENDA ITEM NAME:** Proclamation -- Observance of Arbor Day

**MEETING DATE:** March 14, 2011

**PRESENTED BY:** Matt Magley, Town Manager  
Martin Toth, PROS Director

**PRESENTED FOR:** Action

**BACKGROUND:**

Arbor Day is a nationally recognized event that promotes increasing the tree population to enhance quality of life. Arbor Day in Superior will be observed this year on Saturday, April 9 at Community Park East/3 Parks, beginning at 10:00 a.m. Scheduled activities include:

- tree planting by community volunteers and Superior Mustangs Football players
- family activity to color an Arbor Day-themed mural which will be displayed throughout the summer in the lobby of the South Pool
- educational sessions on tree care

The observance of Arbor Day is one of the requirements for the Town to be named Tree City USA by the National Arbor Day Foundation. In order to be selected for this honor, four standards must be met, which include: creation of a tree board or department, a tree care ordinance, a comprehensive community forestry program, and an Arbor Day observance. The Town of Superior has been named a Tree City USA for the eighth year. This will be the Town's ninth year celebrating Arbor Day.

**BUDGET IMPLICATIONS:**

\$3,000 is budgeted in 2011 in the General Fund.

**ATTACHMENTS:**

- Proclamation



**TOWN OF SUPERIOR**

**A PROCLAMATION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR  
DECLARING APRIL 9, 2011  
ARBOR DAY**

**WHEREAS,** In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

**WHEREAS,** The holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

**WHEREAS,** Arbor Day is now observed throughout the nation and the world; and

**WHEREAS,** Trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

**WHEREAS,** Trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

**WHEREAS,** Trees in our community increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS,** Trees, wherever they are planted, are a source of joy and spiritual renewal.

**THE TOWN OF SUPERIOR HEREBY PROCLAIMS April 9, 2011 as Arbor Day.**

**ADOPTED** this 14<sup>th</sup> day of March, 2011.

\_\_\_\_\_  
Andrew Muckle, Mayor

**ATTEST:**

\_\_\_\_\_  
Phyllis L. Hardin, Town Clerk

**TOWN OF SUPERIOR  
BOARD OF TRUSTEES**

**MINUTES OF FEBRUARY 28, 2011**

The Board of Trustees for the Town of Superior, Colorado met in a regular meeting on February 28, 2011 at the Town Hall, 124 E. Coal Creek Drive, Superior, Colorado.

**CALL MEETING TO ORDER**

Mayor Andrew Muckle called the meetings to order at 7:03 p.m.

**CALLING OF THE ROLL**

Present: Mayor Andrew Muckle; Mayor Pro-tem Elia Gourgouris; Trustees Joe Cirelli, Chris Hanson, Sandy Pennington, Lisa Skumatz (came later), Debra Williams; Town Manager Matt Magley; Town Attorney Kendra Carberry; Town Clerk Phyllis Hardin.

**APPROVAL OF AGENDA**

Trustee Gourgouris moved to approve the Agenda. Seconded by Trustee Williams. Ayes – 6 (Cirelli, Gourgouris, Hanson, Muckle, Pennington, Williams). Absent – 1 (Skumatz). Motion carried.

**REPORTS, QUESTIONS AND ISSUES**

**Mayor and Board Member's Reports**

- Trustee Pennington said most Board members attended the same set of meetings during the month.
- Numerous residents attended the PROSTAC (Parks, Recreation, Open Space and Trails Advisory Committee) meeting on the Town 9 Park. Numerous residents attended the Planning Commission's meeting on the Jefferson Parkway. Board members also met in several different capacities on the Jefferson Parkway.
- Trustee Pennington and Trustee Williams attended two different DRCOG (Denver Regional Council of Governments) meetings.
- She said she finds that the Town is on a fantastic track with residents being involved, all the advisory committees being involved and with the Town Board being very active. On her block everyone is putting their trash cans at the curb and not on the sidewalk. That was resident initiated over the CAC.
- Trustee Gourgouris thanked the Town Manager for providing the Board members with the I-Pads. He said it is great not to bring the entire paper packet to the meeting.
- He said he thought the PROSTAC meeting on the Town 9 was well attended and there was great feedback from the residents. There was also great participation by

- the Town Board members. He would like to use that as an example of having the Town Staff, Board members and the public come together and resolve issues.
- Trustee Williams said she attended a Hodgson-Harris Reservoir Working Group meeting with Boulder County, the Saddlebrooke Homeowners Association, the Rock Creek Ranch Homeowners Association, OSAC (Open Space Advisory Committee), PROSTAC (Parks, Recreation, Open Space and Trails Advisory Committee), POSAC, which is the Boulder County's open space advisory committee, and farmers from the Carolyn Holmberg reservoir at Rock Creek Farms. The reservoir is an agricultural reservoir and supplies water to the Rock Creek Farms and to the farmers for their crops. It was never intended to be a recreational reservoir or even an open space area. It is open space property but not in the way the Town looks at open space.

The County came up with five alternatives that could be done with the failed dam and the future management of the reservoir. There is already a management plan but it does not include anything involving maintaining the reservoir in the capacity the rest of group is looking at. In the planning process it is anticipated there will a few more working group meetings, a public comment period, a POSAC recommendation; and then a final decision by the Boulder County Commissioners. There is not a timeline at this time. Boulder County is also looking for financial partners in this project.

- At some point the Town Board will have to discuss that and decide whether or not to be a financial partner and if so, how much. The working group discussed all five alternatives and how it would meet all the different interests. There wasn't a vote but the alternative was a full restoration of the dam which is the \$1.2 million. The partial restoration was \$1.1. She said she didn't know what Boulder County would ask for but at some point that information will be known. Discussion.
- She also attended a CML (Colorado Municipal League) legislative workshop where Senate and House bills that affect municipalities were discussed. She has a list of those bills that she would send to the Board members.
  - She attended two DRCOG meetings. One was a regular meeting and one was a Retreat. The City of Denver is asking for reconsideration of the 2012 -2017 TIP (Transportation Improvement Project) for a specific project that would be a road and a railroad grade separation. This would allow pedestrians, bicyclists, cars or emergency vehicles to get through when a train is going by on Peoria Street. They are asking for \$25 million and MVIC (Metro Vision Issues Committee), a subsidiary committee at DRCOG, decides what projects are in the TIP. They decided to give this project \$15 million but not \$25 million. Now Denver is coming back and saying they want the full \$25 million and they don't like the decision that MVIC made. They are asking the DRCOG Board to reconsider the \$10 million to get back to the \$25 million. Unfortunately the majority of what has been recommended is Boulder and Boulder County projects that are in the TIP – so \$10 million of those projects would go to another process.
  - She attended the DRCOG Board retreat. She thought that was the best DRCOG meeting she has ever been to – or really any government entity meeting. They

- talked about the Metro Vision for the entire Denver Metro Area through 2035 and there were five goals they were asked to look.
- Trustee Pennington said she agrees with Trustee Williams and suggested that the Town Board ask Staff whether they would be willing to bring a shorten version of that to a work session. Discussion.
  - Mayor Muckle said during his trip to Washington, DC they met with Representatives Polis, Perlmutter and DeGette, both of the Senators, as well as USDOT (United States Department of Transportation), FHWA (Federal Highways Administration) and FTA (Federal Transit Administration). They were there just at the time the budget was being discussed. The issue is that the TIGER/TIFIA (Transportation Investment Generating Economic Recovery/Transportation Infrastructure Finance and Innovation Act) grant is part of that process and this was one of the last stimulus transportation packages that was not finished because an application for a loan program was being reviewed. It is now up in the air whether or not that is going to go forward. Clearly most people in the State (Colorado) have been supportive so the Republicans would vote against it because it is part of stimulus plan and by defacto they will vote against it. He thinks there is a lot of support but it is not a foregone conclusion what is going to happen with the TIGER/TIFIA. That is maybe a \$40 million project that would go into US 36.
  - Mayor Muckle said Channel 9 has gotten interested in the Town's solar panel projects and he would be meeting with Greg Moss tomorrow morning at 5:00 a.m.
  - Trustee Skumatz said she attended a CML policy committee meeting and she would forward the findings to the other Board members.
  - Trustee Skumatz said the Recycling and Conservation Advisory Committee (RCAC) met last week. She also met with Boulder County about the EnergySmart Program. This is a program where residents can get audits done on their homes. There is a person who sort of does hand-holding and installs some measures in their homes, such as CFL's and weather stripping. They then help get estimates from contractors for some short-term, such as 3 year financing, for people who might want to have things done in their homes. The audit is a discounted audit and she thought it costs about \$100.00. Information about this is on Channel 8; on the Town's website and was included in the last newsletter. RCAC would like to challenge Superior to have the highest participation per capita or per household in the County. As part of that project a one hour sustainability and energy smart meeting will be held sometime in March at the Town Hall. Discussion.
  - Trustee Cirelli said he attended the same meetings as others. He was impressed by both the Jefferson Parkway meeting that the Planning Commission chaired and the comments by the residents. It sparked some thought of where the Town is going and how to respond, not just to the Parkway, but more generally how to respond internally to the roads and economic development.
  - He said the meeting PROSTAC chaired on the neighborhood park at Town 9 was a good meeting. It started some momentum that he would like to see continue to finish this park in the foreseeable future, maybe the end of next year. PROSTAC

- is working hard on this and Town residents, particularly in Original Town, are participating.
- Trustee Cirelli and Trustee Hanson attended an Executive Committee meeting of the Rocky Flats Stewardship Council. They are not members of the Executive Committee but a meeting was held with the new officers and the meeting was basically to determine how they are going to do business. One of the key items is that DOE (Department of Energy) is scheduled to give the Stewardship Council a briefing on the type of soil monitoring that was done in the buffer zone at Rocky Flats. It is important to understand what was done there to know whether there are concerns about what may be done in the near future on land surrounding Rocky Flats or land that may be sold by the Fish and Wildlife service. Discussion.
  - Trustee Hanson said he was encouraged by that meeting because at one point he was lead to believe the Stewardship Council would take a neutral position on anything that had to do with the Jefferson Parkway but it looks like they will actually be discussing requiring samples to be taken from that right-a-way.
  - Trustee Hanson also thinks the I-Pads are great. It is not only going to save the Town money but time, ease of use, planning, etc.
  - He said in terms of the Economic Development he thinks there are as many surveys completed that he is going to get. He sent out the request to 75 different people to take the survey and about 50% responded. About 50% of those people actually completed the survey. There are about a dozen people that want to be on the committee. The next step is to evaluate the assessment, come up with a report and then call a meeting. He is hoping that happens within the next couple of weeks.
  - Trustee Hanson and Trustee Pennington have started visiting businesses last week and did a quick survey with them to get their feedback. This will be an on-going process – maybe quarterly.
  - Trustee Hanson said he attended a PROSTAC meeting. Lee from Lee Likes Bikes was there and discussed his plan to get the bike park completed. Construction will start on March 12<sup>th</sup> and should be done by the 20<sup>th</sup>. He is calling for volunteers. Aaron Atwell, PROSTAC, is leading that charge so if anyone wants to be involved in that process, whether they have ½ hour or all day, on weekends of March 12 and March 19 – get in touch with Aaron.
  - Also, Martin Benz is a local Boy's Scout, who is doing an Eagle Scout project at the dog park. He will be putting up the fence around the dog park. He gave a nice presentation on his plan of attack.
  - Trustee Hanson agreed with the other Trustees about the recent meetings. He thought the Planning Commission meeting was very well organized and they did a super job on allowing that meeting to flow smoothly. There weren't any issues but a lot of good comments on both sides. The Town 9 Park meeting was great too. He hopes the residents of Original Town see this as in indicator of the seriousness of making Town 9 exactly what they want.
  - Trustee Skumatz said she also attended the Town 9 meeting. Her only comment was that probably three-fourths, if not more of the attendees, were either on

PROSTAC or the Town Board. She was sorry more of the residents weren't able to make that meeting.

**Town Manager Report** – Matt Magley said preliminary census data has been received. What has been said for the last few years has been confirmed as far as population figures are concerned.

Boulder County has given June 3<sup>rd</sup> as kind of the tentative date for opening of the Coalton Trailhead. Once that is firmed up he will get the word out to everyone.

Mr. Magley said it has been in the news that a group called Black Stone is going to purchase Centro's US assets which includes the Superior Marketplace. Once the transfer takes place he will see if he can meet with their representatives. Discussion.

Mayor Muckle asked if there was any news about Arby's that he could share. Mr. Magley said the citation has been issued so he thought they would be in the next court.

Mr. Magley said there have been a lot of calls and emails from concerned residents about coyotes. The Parks, Recreation and Open Space Department, Martin Toth and Alan McBeath, have a plan in place that involves ammonia soaked tennis balls that they will throw around the dens to discourage coyotes from making dens. They are going to walk the known activity areas of the coyotes and place the balls. He asked if the Board wanted to do anything in addition to that such as hiring a company to come in and maybe trap them, etc. Discussion.

### **PUBLIC COMMENT ON CONSENT AGENDA AND NON-AGENDA ITEMS** **CONSENT AGENDA**

George Kupfner, 109 So. 4<sup>th</sup> Avenue, Superior, asked Trustee Williams if she was talking about working with the County Commissioners on the lake off 88<sup>th</sup> Street. He suggested putting some off-street parking since it is open space and maybe stocking that lake with fish. Trustee Williams said in the meeting with the Working Group the farmers said that would not be beneficial to them and that could be discussed further but probably unlikely.

Mr. Kupfner asked about the curbs and gutters (on the south end of Town). He said the alley has never been fixed. He has talked to some Board members about how that could be fixed at not a lot of expense compared to what they are talking about. If the warranty isn't up he would like to see the cracks in the curb and gutter fixed.

Mr. Kupfner wanted to know when something would be done with W. Coal Creek Drive – is it coming up for repaving this year and are the citizens going to have some input on that or not.

Mr. Kupfner asked about the Urban Drainage. He saw there was an expenditure of \$200,000. He wanted to know if that means the Town is going to clean up that creek

and if it is he thinks it needs to be done immediately, not 2 years or 3 years down the road. He thinks the trees need to be cleaned out of the creek especially to protect that bridge. Mayor Muckle said if the Urban Drainage and Flood Control District accepts a project they potentially would use their funds for clearing the creek but he didn't know what the end result of the study would be. Discussion.

Mr. Kupfner wanted to know if the Town has a policy on disposing of Town property such as desks, chairs, computers, vehicles – anything the Town owns. If there isn't anything he would like the Board to advise the Attorney to draw up some kind of regulation/rules immediately. Discussion.

George Leo Kupfner, 7520 W. Coal Creek Drive, Superior, he lives next to the trail and has very little sympathy for those people who are worried about their dogs with the coyotes. He said people take their dogs to the trail and turn them loose. If the dog sees a rabbit, or whatever, they take off. He told a story about someone with two dogs, one small one and a golden retriever, who were off their leashes. The golden retriever encountered some coyotes who were stalking the dog. Discussion.

### **CONSENT AGENDA**

- Trustee Skumatz moved to approve the Consent Agenda for the following items.
- Item #7A - Approval of the Board of Trustees minutes for the February 14, 2011 meeting.
  - Item #7B – Acceptance of the minutes of the Historical Commission, the Open Space Advisory Committee and Parks, Recreation, Open Space and Trails Advisory Committee meetings
  - Item #7C – Adoption of a Resolution approving an Agreement with Rock Creek Masters Homeowners Association for Facility Use – Resolution #R-12, Series 2011 A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING AN AGREEMENT WITH THE ROCK CREEK MASTERS HOMEOWNERS ASSOCIATION FOR FACILITY USE.

Seconded by Trustee Gourgouris. Roll Call vote: Hanson – aye; Gourgouris – aye; Cirelli – aye; Pennington – aye; Muckle – aye; Skumatz (abstained from the vote on the February 14, 2011 minutes), Williams – aye. Motion carried.

### **DISCUSSION AND ADOPTION OF A RESOLUTION APPROVING THE CAPITAL IMPROVEMENT PROJECTS WORKING SHEETS**

Town Manager Matt Magley said this item was tabled from the last meeting so all Board members would have an opportunity to review and comment, and provide Staff direction on the CIP working sheets. He said from his perspective the main point of these working sheets is to nail down the public process and not so much the actual management of the projects. He said Trustee Skumatz sent an email to the Board members this afternoon with some of her comments. Following is some of the discussion.

- Mayor Muckle wanted to know what is trying to be achieved - just what the sheets look like or are these actually approving specific projects. Mr. Magley said in his opinion it is to nail down the exact format to be used.
- Trustee Skumatz said there were about three to be discussed further. She was interested in finding about the public process but also making sure to have really good documentation about how many residents were notified, in what way they were notified about public hearings, and any other important steps in the process. She thought that was to be a priority and to make sure to track the public process in terms of how and how many were done for the public process.
- Mr. Magley said from Staff's perspective the process for notifying residents is laid out in Chapter 16 (Superior Municipal Code) and there is a specific chart as to whether notices are mailed out, how many days prior to and how many households with 1000 feet or a minimum of 50 houses. He suggested having a notation on the form referring to the section in Chapter 16 with that information. Discussion.
- Trustee Pennington said any notification to residents of any kind regarding a project she thinks must be documented – have it in Town records in some way even if it is just as a note so that documentation is always retained. Mr. Magley said that can be included in the notes and put the date when it was sent out.
- Trustee Skumatz said because there could be multiple notifications it was talked about adding a notes column so it would be a new column. Mr. Magley said he thought bullets could be put at the bottom with specific dates.
- Trustee Skumatz said Mr. Magley mentioned this was looking at managing the public process. From some of the early discussions with the Board she took it to be they were interested in whoever was responsible for moving things forward or accomplishing something – whether that was Town Staff or a consulting engineer and that would be noted. As the form exists, both the consulting engineer and Town Staff activities happen behind the scenes. The Board won't get any interim steps. That was something to be discussed with Board. Mr. Magley said to him that gets to more managing the project which is the Staff's responsibility rather than managing the public process which he thought this was being accomplished with these sheets. Discussion.
- Trustee Cirelli said he would go along with the consensus of what the Board wants but his personal view is that he is not qualified to be project manager, doesn't want to sit in the shoes of a project manager, and doesn't want to act like a project manager – that is not what he was elected to be doing and that kind of detail is not what he needs.
- Mayor Muckle said he agrees with Trustee Cirelli and he needs less detail. If something doesn't get done the buck stops at the Town Manager's desk. He is responsible for managing the Staff - the Board members are not responsible for managing Staff.
- Trustee Gourgouris said he tends to lean more with the Mayor and Trustee Cirelli. He feels there needs to be less micro-management – trust Staff unless proven otherwise.
- Trustee Williams said she likes the idea of narrowing down the schedule and not saying first quarter, second quarter. She is okay without an actual date. As far as

the specific responsibilities under the Staff she doesn't care whether that is on the sheet or not. Although, she thinks the approval of a grant should be after the approval of the design. The grant is important to her, the design contract or the concept design review is important to know because it is hard to determine where we are in that process. That would help the residents.

- Trustee Skumatz said she did not want to see the grants as early in the process as listed. That was one of the big hot buttons in the last project and it has been an on-going issue. It was suggested to move it back to at least after the second project review as an appropriate point to start looking at grants.
- Mayor Muckle said it probably makes sense to maintain some flexibility. The grant cycles come up twice a year and if the thought is to go for that grant but you wait until it is way into the process the whole thing might be delayed by six months. Trustee Skumatz said that is the purpose of this project so to see when the grants are coming and they can be back tracked – reverse the project so as to know when to start working on the project.
- Trustee Skumatz said if she understands the design contract and the concept design review stages properly she thinks there needs to be something earlier than a Town Board discussion of the major design elements or a Town meeting on those major design elements prior to design concepts and design contracting.
- Mr. Magley said his idea was that there would be a work session to get feedback from the committees and the public but some designs would be needed to show them, and depending on what the contract amount, it may have to be approved before any money is spent to be able to proceed further on the project.
- There was more Board discussion about the forms. A summary of that discussion is as follows:
  - 1) All these CIP projects are part of the budget. Before anything is done the Board would have to talk about whether it should be in the CIP or not.
  - 2) To the extent there is a prior history on any project it is relevant and should be documented on the form.
  - 3) It is important to remember that when the budget and CIP projects are approved it doesn't mean they are going to get done but it gives Staff direction on what they should be working on in the upcoming year.
  - 4) On the Trails Improvement project form the rehab social trails and BMX area north of Williams Field at the Creek; engineer and provide for pedestrian bridge at McCaslin and Coal Creek Trail; link Singletree to Coal Creek via rail bed and McCaslin; and add soft trail along Sagamore north and west boundaries might need to be considered as four different tracking project schedules.
  - 5) As projects get closer to getting started more precise dates could be filled in, such as whether that is the month or the first quarter or what.

Public comments were made by Jim Paine, Chair of PROSTAC.

**PRELIMINARY READING OF AN ORDINANCE REGULATING AREAS OF STATE INTEREST AND ACTIVITIES OF STATE INTEREST**

Matt Magley said this is the first reading of an ordinance amending Article XXXIV of Chapter 16, also known as the Land Use Code, regarding areas and activities of state interest within the Town. Article XXXIV covers areas and activities of state interest in the Town but it doesn't include specific procedures for something occurs within the Town. An example is mining of natural resources on vacant land and design and expansion of highway or interchanges, natural hazard areas, areas that have historical or natural archaeological resources. Kendra Carberry said this gives the Board a lot more control as it forces people to come in and apply for a permit for one of these activities. It has to be within the corporate limits of the Town. Mr. Magley said it provides the Town with additional protections if something needs to be permitted. Discussion.

Mayor Muckle asked if this was a boiler plate version from another community and Ms. Carberry said yes, the City of Idaho Springs. There was a discussion about the ordinance and some changes were made. The clean version of the ordinance will be included in the Board's packet for the March 28, 2011 meeting.

Trustee Skumatz moved to approve the preliminary reading of the ordinance – AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR ENACTING REGULATIONS PERTAINING TO AREAS AND ACTIVITIES OF STATE INTEREST WITHIN THE TOWN. Seconded by Trustee Williams. Ayes – 7 (Cirelli, Gourgouris, Hanson, Muckle, Pennington, Skumatz, Williams). Motion carried.

**EXECUTIVE SESSION TO DETERMINE POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOP A STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCT NEGOTIATORS, PURSUANT TO C.R.S. 24-6-402(4)(e) REGARDING THE JEFFERSON PARKWAY AND PROPERTY ACQUISITIONS**

Trustee Williams moved to go into executive session to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. 24-6-402(4)(e) regarding the Jefferson Parkway and property acquisitions. Seconded by Trustee Gourgouris. Ayes – 7 (Cirelli, Gourgouris, Hanson, Muckle, Pennington, Skumatz, Williams). Motion carried. An Executive Session was held. Trustee Cirelli moved to come out of the executive sessions. Seconded by Trustee Hanson. Ayes – 6 (Cirelli, Gourgouris, Hanson, Muckle, Pennington, Williams). Absent – 1 (Skumatz). Motion carried.

**ADJOURNMENT**

Mayor Muckle adjourned the meeting.

**READ AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.**

\_\_\_\_\_  
Andrew Muckle, Mayor

**ATTEST:**

---

Phyllis L. Hardin, Town Clerk/Treasurer

DRAFT



## ITEM NO. 7B

### INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

**AGENDA ITEM NAME:** Approval of a Liquor License renewal and Tastings Permit for Superior Liquor Market

**MEETING DATE:** March 14, 2011

**PRESENTED BY:** Phyllis Hardin, Town Clerk

**PRESENTED FOR:** Action

**BACKGROUND:**

The liquor license for Superior Liquor Market was approved by the Liquor Licensing Authority in 1999. Since that time the Authority has renewed their license. In 2004 the State adopted legislature that allows Tastings in liquor stores and the Authority has also approved their permit since that time.

Attached is a copy of the renewal application from the State of Colorado for Superior Liquor Market which expires on May 25, 2011. The Board of Trustees can refer the renewal request to the liquor license authority or allow it to renew automatically pursuant to Section 6-61 of the Superior Municipal Code. This also depends on whether or not the Boulder County Sheriff's Department approves or disapproves the renewal. In the case of Superior Liquor Market the Sheriff's Department has recommended approval of the renewal (see attached).

Superior Liquor Market also submitted a renewal application for a Tastings Permit. The Superior Municipal Code requires Tastings Permits to be approved at the time their liquor license is renewed.

**RECOMMENDED ACTION:**

Allow the renewal application for Superior Liquor Market to occur automatically pursuant to Section 6-61 of the Superior Municipal Code and approve the Tastings Permit for another year.

**PROS:**

- Keeping the business in the Town

**MOTION:** Move to approve the liquor license renewal and tastings permit for Superior Liquor Market.

**ATTACHMENTS:**

- Liquor Licensing Investigation Report from Boulder County Sheriff Department
- Liquor Renewal Application for Superior Liquor Market (Board members only)
- Tastings Permit Application (Board members only)



## ITEM NO. 7C

### INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

**AGENDA ITEM NAME:** Resolution – Special Counsel with the firm Gablehouse Calkins & Granberg, LLC

**MEETING DATE:** March 14, 2011

**PRESENTED BY:** Matt Magley, Town Manager

**PRESENTED FOR:** Action

**BACKGROUND:**

Attached is a letter of agreement for legal services as special counsel for the Town by the firm Gablehouse Calkins & Granberg, LLC. The agreement allows the firm to continue working on the Jefferson Parkway issue for the Town. The firm has already started working on this issue for the Town conducting research and drafting letters. This firm has a tremendous amount of experience and knowledge regarding environmental law and will provide excellent representation for the Town in this area.

The agreement calls for periodic updates to the Town regarding their work progress. It also calls for the firm to be the lead representation for the Town regarding this issue. The agreement calls for the firm to retain files related to work performed for the Town, however the Town may request these files at any time.

The agreement will be in effect until terminated by either party through written notification. Please contact me prior to the meeting if you should have any questions regarding this issue.

**RECOMMENDED ACTION:** Adoption of the Resolution.

**PROS:**

- Provides special counsel for the Town regarding the Jefferson Parkway issue
- Protects the Town's interests

**CONS:** None

**ALTERNATIVES CONSIDERED:** None

**BUDGET IMPLICATIONS:** The firm's hourly rate to the Town will be a discounted rate of \$250 per hour for attorneys and \$135 per hour for paralegal staff. These costs will be covered under the Town's legal fund.

**BOARD FOLLOW-UP ITEMS:** N/A

**COMMISSION/COMMITTEE RECOMMENDATION:** N/A

**FEEDBACK FROM AFFECTED RESIDENTS:** N/A

**MOTION:** Move to approve a Resolution of the Board of Trustees of the Town of Superior approving a Letter of Agreement with the firm Gablehouse Calkins & Granberg, LLC.

**ATTACHMENTS:**

- Resolution
- Letter of Agreement

TOWN OF SUPERIOR  
RESOLUTION #R-13  
SERIES 2011

A RESOLUTION OF THE BOARD OF TRUSTEES  
OF THE TOWN OF SUPERIOR APPROVING A  
LETTER AGREEMENT BETWEEN THE TOWN AND  
GABLEHOUSE CALKINS & GRANBERG, LLC FOR  
LEGAL SERVICES

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF  
TRUSTEES OF THE TOWN OF SUPERIOR, that

Section 1. The Letter Agreement between the Town  
and Gablehouse Calkins & Granberg, LLC., for legal services  
in substantially the same form as attached hereto, is  
hereby approved subject to final approval by the Town  
Attorney.

ADOPTED this 14<sup>th</sup> day of March, 2011.

---

Andrew Muckle, Mayor

ATTEST:

---

Phyllis L. Hardin, Town Clerk-Treasurer

# GABLEHOUSE CALKINS & GRANBERG, LLC

Attorneys and Counselors at Law

410 SEVENTEENTH STREET  
SUITE 1375  
DENVER, COLORADO 80202

TIMOTHY R. GABLEHOUSE  
(303) 572-0050  
(800) 818-0050  
FAX (303) 572-3037  
tgablehouse@gcgllc.com

*Privileged and Confidential*

March 8, 2011

*Via Email Only*

Andrew Muckle  
Mayor  
Town of Superior  
124 E. Coal Creek Drive  
Superior CO 80027

Re: Retainer Letter

Dear Mayor Muckle:

We appreciate your interest in having our firm assist you.

The Jefferson Parkway Public Highway Authority is asking for the transfer of a right-of-way along the Eastern side of the Rocky Flats National Wildlife Refuge to support a very substantial toll-road construction project. The environmental impacts of such a project on the Town as well as the entire region are potentially quite significant and it appears that these impacts have not been adequately reviewed or considered in possible violation of the National Environmental Policy Act and other statutes. The scope of our engagement will be to advise the Town on how to insure that the Fish and Wildlife Service of the Department of Interior, the Jefferson Parkway Highway Authority and others properly account for the environmental impacts of this proposed project.

The remaining portion of this letter is designed to make certain we have a clear understanding of the terms under which we propose to proceed to represent you in this matter. The following specifies the terms under which this firm will provide you with legal services.

We agree to represent you faithfully, diligently and competently, and to keep you informed about significant developments and our progress in this matter. To the degree we deem appropriate, we will assign staff members to work on these matters, including paralegal personnel. All work performed by staff members who are not attorneys will be supervised by attorneys.

We do not guarantee any specific result. While we are certainly hopeful of a favorable outcome, it is impossible to predict the outcome.

You agree to contact us should you have any concerns about our handling of these matters. You agree to refer any inquiry or documents regarding these matters received from agencies or attorneys, to us. You further agree to refrain from any contact with these persons and entities without prior

*Attorney-Client Privileged*

*Page 2*

*March 8, 2011*

discussion with us.

We only bill for expenses external to our routine operations and then only at our cost. Expenses may include computerized legal research, filing fees, outside copying services, express delivery or courier fees, and expert witness fees. We will seek your approval before incurring any costs in excess of \$100 or before retaining any experts.

We will bill you monthly, typically on or around the first of the month, by providing an itemized invoice. You agree to pay these invoices within 30 days. We bill on an hourly basis, dividing hours into tenths. The hourly rate for attorneys in our firm is \$250 and paralegal staff is billed at \$135 per hour. This is a substantial discount from our normal rates which we are pleased to offer to smaller municipal clients.

We will retain the file relating to this matter for a minimum period of two years after our termination of representation in this particular matter. We agree to provide you with thirty days notice of our intent to destroy the file. During the thirty day notice period, you may retrieve your file. Should you fail to retrieve your file within the thirty day notice period, the file may be destroyed without further notice to you and provided our firm is not aware of any pending or threatened legal proceeding relating to the file. Any file kept longer than ten years after termination of representation may be destroyed without prior notice to you so long as there is no pending or threatened legal proceeding relating to said file and known to our firm.

Either party may terminate this agreement upon written notice. The firm may terminate this agreement for any reason consistent with the ethical codes adopted by the Colorado Supreme Court or for nonpayment of fees.

Please let me know if you have any questions. If you are in agreement with the terms of this letter, please indicate so by signing below and returning a copy to our office.

Please let me know if you have any questions.

Best regards,



Timothy K. Gablehouse  
for Gablehouse Calkins & Granberg, LLC

TRG/tg

---



## ITEM NO. 8

### INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

**AGENDA ITEM NAME:** Resolution -- Approving an Amended Intergovernmental Agreement with Boulder County / Coalton Trailhead to Include New Trail Section

**MEETING DATE:** March 14, 2011

**PRESENTED BY:** Martin Toth, PROS Director

**PRESENTED FOR:** Action

**BACKGROUND:**

The Town Board approved an intergovernmental agreement (IGA) with Boulder County on April 26, 2010, for the Coalton Trailhead at the intersection of Coalton Road and McCaslin Boulevard that identified roles and responsibilities of each party for the construction and maintenance of the trailhead. In conjunction with Boulder County's work to complete that project, the County also developed a new multi-use trail connection between the Mayhoffer Singletree Trail and the Coalton Trail. The newly constructed trail connection traverses a portion of the Town's Arsenault Open Space property south of Original Superior, and provides a vital link between this neighborhood and the Rock Creek Regional Trail.

For the Board's consideration under this agenda item is an amended version of the April 26, 2010, IGA to include this new trail section. Mirroring the original IGA language, this amended IGA identifies the County's responsibilities for initial construction and major repair/replacement of improvements at the trail and trailhead. The Town's responsibilities include the day-to-day maintenance of the trailhead facility and minor repairs. The amended IGA recognizes that the County will maintain the trail, enforce County rules and regulations on the portion through the Arsenault property, and that major repairs or improvements to this section of the trail will be reviewed and cost-shared as mutually agreed upon by the Town and the County.

**PROS:**

- This cooperative effort provides a valuable amenity to our community.

**CONS:**

- None

**BUDGET IMPLICATIONS:**

The Town contributed \$100,000 toward the construction of the trailhead facility in 2010, and increased by \$6,000 funding for annual maintenance of the trailhead and trail section through the Arsenault Property.

**MOTION:**

Move to approve the Resolution amending and restating the Intergovernmental Agreement with Boulder County for the Coalton/McCaslin Trailhead and Trail.

**ATTACHMENTS:**

- Resolution
- IGA

TOWN OF SUPERIOR  
RESOLUTION #R-\_\_\_\_  
SERIES 2011

A RESOLUTION OF THE BOARD OF TRUSTEES  
OF THE TOWN OF SUPERIOR APPROVING AN  
AMENDED AND RESTATED INTERGOVERNMENTAL  
AGREEMENT BETWEEN THE TOWN OF SUPERIOR  
AND BOULDER COUNTY REGARDING THE  
CONSTRUCTION AND MAINTENANCE OF  
COALTON/MCCASLIN TRAILHEAD AND TRAIL

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF  
TRUSTEES OF THE TOWN OF SUPERIOR, that

Section 1. The Amended and Restated  
Intergovernmental Agreement between the Town of Superior  
and Boulder County regarding the Construction and  
Maintenance of the Coalton/McCaslin Trailhead and Trail, in  
substantially the same form as attached hereto, is hereby  
approved subject to final approval by the Town Attorney.

ADOPTED this 12<sup>th</sup> day of March, 2011.

\_\_\_\_\_  
Andrew Muckle, Mayor

ATTEST:

\_\_\_\_\_  
Phyllis L. Hardin, Town Clerk-Treasurer

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE TOWN OF SUPERIOR AND BOULDER COUNTY  
REGARDING THE CONSTRUCTION AND MAINTENANCE OF  
COALTON/MCCASLIN TRAILHEAD AND TRAIL**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (the "Amended and Restated IGA") by and between the **Town of Superior**, a Colorado municipal corporation (hereinafter referred to as the "Town"), and the **County of Boulder**, a body corporate and politic of the State of Colorado (hereinafter referred to as the "County") (collectively the "Parties") is made to be effective on the \_\_\_\_ day of \_\_\_\_\_, 2011.

**WHEREAS**, the functions described in this IGA are lawfully authorized to each of the Parties which perform such functions hereunder, as provided in C.R.S. §§ 29-20-101 et seq; C.R.S. §§ 30-28-101 et seq.; C.R.S. §§ 31-12-101, et seq.; C.R.S. §§ 31-23-201 et seq.; and C.R.S. §§ 21-23-301 et seq., as amended; and

**WHEREAS**, C.R.S. §§ 29-1-201, et seq., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Colorado Constitution, Article XIV, § 18 (2); and

**WHEREAS**, the Parties entered into an Intergovernmental Agreement Between the Town of Superior and Boulder County Regarding the Construction and Maintenance of Coalton/McCaslin Trailhead on June 3, 2010 (the "IGA"), which IGA was recorded in the records of the Boulder County Clerk and Recorder on July 13, 2010, at Reception Number 03085615.

**WHEREAS**, the Parties desire to amend the IGA to expand its scope as set forth herein and have followed the procedures required to enter into this Amended and Restated IGA to supersede, amend, and replace the IGA; and

**WHEREAS**, the Boulder County Regional Trails Plan and Parks and Open Space Capital Improvement Plan include construction of a new multiple use recreational trail (the "Trail") connecting the Mayhoffer Singletree Trail to the Coalton Trail and construction of a Trailhead and parking lot on the western leg of the intersection of Coalton Road and McCaslin Boulevard in the vicinity of Superior, Colorado (the "Trailhead") as depicted on Exhibit A, attached hereto and incorporated herein; and

**WHEREAS**, a portion of the Trail is located on land owned by the Town and the Town has contributed \$100,000 in association with the construction of the Trailhead; and

**WHEREAS**, the majority of the Trail is located on land owned by the County and the County has constructed the Trailhead and the Trail and paid the majority of the costs associated with construction of the Trail and Trailhead; and

**WHEREAS**, the Parties desire to enter into this Amended and Restated IGA to set forth their respective responsibilities with respect to construction and maintenance of the Trail and Trailhead.

NOW, THEREFORE, the Town and the County agree as follows:

The Trailhead:

1. Location: The Trailhead is located as depicted on Exhibit A and consists of 29 parking spaces, 3 trailer spaces, a kiosk, a shelter and a restroom facility. The surface of the Trailhead consists of recycled asphalt. The interior parking spaces consists of stone curbs, with the westerly spaces consistent with the concrete path that terminates to the west. The landscaping is comprised of native prairie plant material with berms to the northeast and east.
2. Management and Maintenance: It shall be the responsibility of the Town and the County to protect the natural and cultural resources associated within the footprint of the Trailhead. The Town and the County shall be responsible for management and maintenance of the Trailhead, with their respective responsibilities as defined in Exhibit B, attached hereto and incorporated herein. The County and the Town shall have authority to enforce the Rules and Regulations for Boulder County Parks and Open Space Areas, as those Rules and Regulations may be amended from time to time, in the vicinity of the Trailhead.
3. Alterations: Neither the Town nor the County shall make any material alteration, addition, or improvement to the Trailhead without prior written consent of the other Party.
4. Improvements: Trailhead improvements which are not part of the original construction project and are added later shall be subject to the provisions of this Amended and Restated IGA, in its present form or as it may be amended in the future.
5. Jurisdictional Access: The Trailhead shall remain accessible at all times by maintenance and emergency vehicles from the Town and the County.

The Trail:

6. Location: The Trail shall follow the alignment depicted on Exhibit A. The majority of the new trail is on the County's open space, with a portion on the Town's Arsenault Open Space property (the "Arsenault Section").

7. Trail Construction Costs: The Parties agree that the Town of Superior has contributed the land for the construction of the Trail on the Arsenault Section. The remainder of the Trail is on Boulder County land and Boulder County will cover the remainder of the Trail project costs.
8. Management, Maintenance and Enforcement: The County shall be responsible, at its sole expense, for placing trail signage and routine management and maintenance of the Trail, including the Arsenault Section. The Trail shall be a multiple use, passive recreational trail, allowing hikers, joggers, bicyclists, and equestrians. The County shall enforce the Rules and Regulations for Parks and Open Space Areas on the Trail as those Rules and Regulations may be amended from time to time. The Town shall be responsible for mowing, fence maintenance and repairs, weed management, wildlife management, and wetland management for all Town owned property outside of the trail corridor on the Arsenault Section. Because the lands surrounding the Arsenault Section are currently under an agricultural lease, all visitors will be required to remain on trail.
9. Alterations or Improvements on the Arsenault Section: Neither Party may make any alteration, addition, or improvement to the Trail on the Arsenault Section after its initial construction without prior written consent of both Parties. Funding for future major trail maintenance or repairs exceeding \$1,000, or other mutually agreed upon alterations/improvements will be reviewed and cost shared as mutually agreed to by the Town and the County.

General Provisions:

10. Governmental Immunity Act: Each Party retains the benefits which are provided to it under the Governmental Immunity Act, C.R.S. §§ 24-10-101, et seq.
11. Entire Agreement: This Amended and Restated IGA contains the entire agreement between the Parties. It may be amended only by written agreement approved by both Parties.
12. Severability: If any portion of this Amended and Restated IGA is held by a court in a final, non-appealable decision to be invalid or unenforceable as to any Party, the entire Amended and Restated IGA shall be terminated, it being the understanding and intent of the Parties that every portion of the Amended and Restated IGA is essential to and not severable from the remainder.

13. No Third-Party Beneficiaries: The parties, in their corporate and representative governmental capacities, are the only entities intended to be the beneficiaries of the Amended and Restated IGA, and no other person or entity is so intended.
14. Enforcement: Any one or more of the Parties may enforce this Amended and Restated IGA by any legal or equitable means including specific performance, declaratory and injunctive relief. No other person or entity shall have any right to enforce the provisions of this Amended and Restated IGA.
15. Governing Law and Venue: The laws of the State of Colorado shall govern this Amended and Restated IGA and venue shall lie in the County of Boulder.
16. Party Representatives: Notice: Referrals made under the terms of this Amended and Restated IGA shall be sent to the Parties' representatives listed below. Any required notices or referrals shall be in writing and shall be hand delivered or sent by facsimile transmission or United States mail, postage prepaid, to the addresses of the parties herein set forth. All notices by hand delivery shall be effective upon receipt. All facsimile transmissions shall be effective upon transmission receipt. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below.

Entity:

Representative:

Town of Superior

Director of Parks, Recreation  
and Open Space  
Town of Superior  
127 E. Coal Creek Drive  
Superior, CO 80027

County of Boulder

Director of Boulder County  
Parks and Open Space  
5201 St. Vrain Road  
Longmont, CO 80503

Name or address changes for representatives shall be made in writing, mailed to the other representatives at the then current address.

17. Headings: The paragraph headings in this Amended and Restated

IGA shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

18. Counterparts: This Amended and Restated IGA may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement. Facsimile signatures shall be acceptable to and binding upon the Parties.

**IN WITNESS WHEREOF**, the parties have entered into this Amended and Restated IGA, to be effective on the date provided above.

TOWN OF SUPERIOR

By: \_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Phyllis L. Hardin, Town Clerk

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date: \_\_\_\_\_

[SEAL]

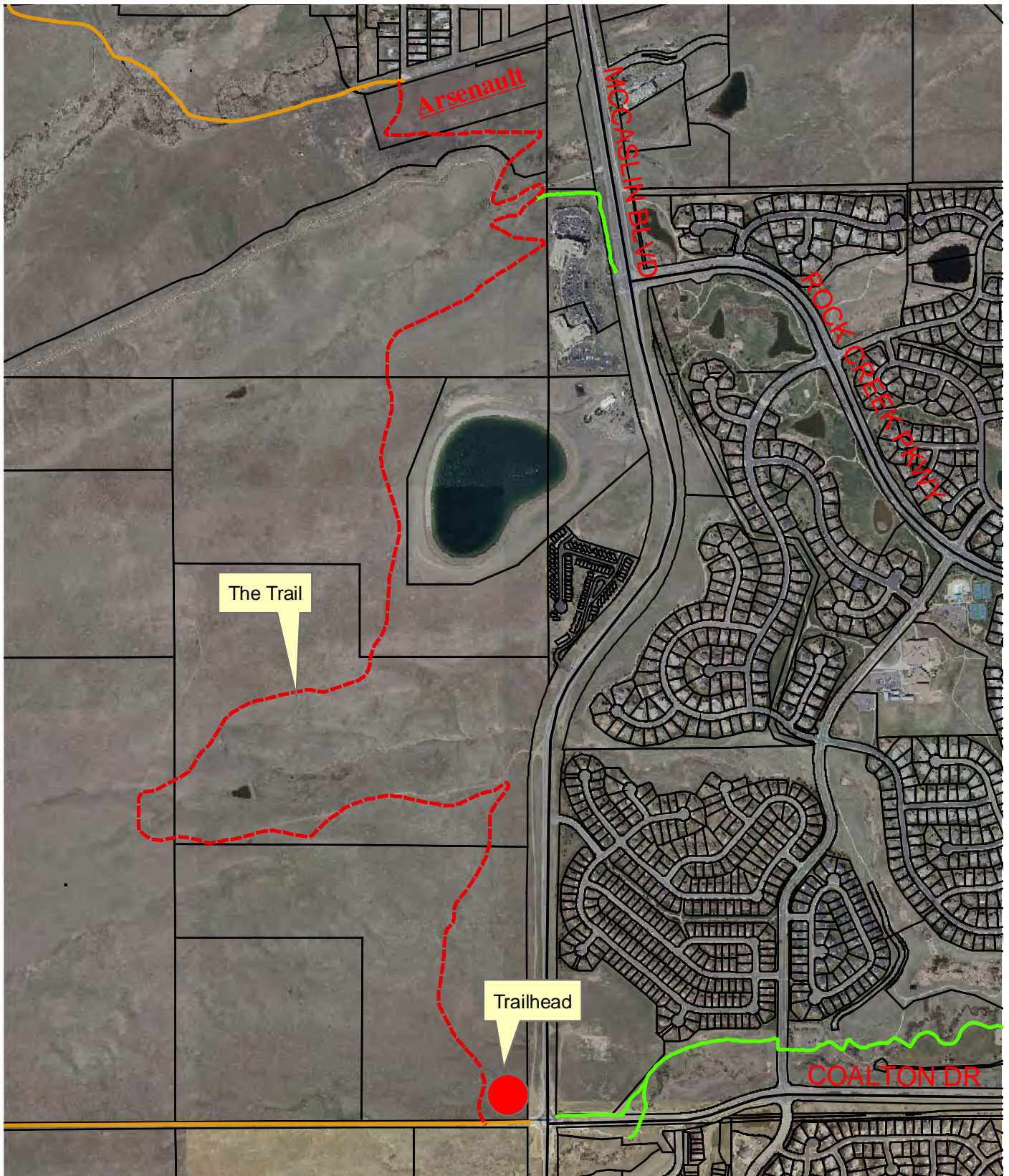
**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF BOULDER, COLORADO**

By: \_\_\_\_\_  
Ben Pearlman, Chair

**ATTEST:**

\_\_\_\_\_  
Clerk to the Board

# EXHIBIT A



DISCLAIMER: This map is for illustrative purposes only, and is not suitable for parcel specific decision making. The areas depicted here are approximate. More site specific studies may be required to draw accurate conclusions.

COPYRIGHT: © 2011 by the County of Boulder, Colorado. All rights reserved. No part of this data may be copied, reproduced, or transmitted in any form or by any means whether graphic, electronic, or mechanical, including photocopying, recording, or by any information storage or retrieval system, without permission from the County of Boulder, Colorado.



Legend	
	THE TRAIL
	Multiuse Trail
	Local Connector Trails
	Parcel Layer

**EXHIBIT B**  
**Trailhead Responsibilities**

<b>Task</b>	<b>BOCO</b>	<b>TOS</b>
Inspections	An annual inspection shall be performed by representatives of the Town and County in order to discuss routine maintenance activities and prepare for appropriate budget submittals. This inspection will be completed by May 15 of each year. Replacement and Major Repairs will be recommended within a 5 year budget cycle.	
Enforcement	A Park Ranger or Sheriff deputy shall patrol trailhead and surrounding county owned lands	BOCO Sheriff shall respond to emergency situations when necessary
Mowing		provide mowing as necessary
Debris/trash		provide debris removal weekly
Weed Control	all county owned areas outside trailhead	provide weed control as necessary
Prairie Dog Management and Barriers	shall provide prairie dog management and maintain/replace barriers as needed	
Fencing and Gates	major repairs and/or replacement	provide minor repairs
Plant Material		routine care: watering, pruning and replacement as needed
Resurfacing	major repairs and resurfacing	minor repairs
Restroom	major repairs and/or replacement	cleaned two days per week in winter, two to three days per week in spring and fall, and daily in summer; pumping as necessary
Shelter	major repairs and/or replacement	provide cleaning and routine maintenance as necessary
Kiosk	major repairs and/or replacement	provide cleaning and routine maintenance as necessary
Bike racks	major repairs and/or replacement	routine maintenance as necessary
Dog station	major repairs and/or replacement	provide cleaning as necessary
Trash receptacles	major repairs and/or replacement	provide trash pick-up two times per week and will provide replacement
Picnic tables	major repairs and/or replacement	provide trash pick-up two times per week and will provide replacement
Wheel stop/timber curbing	major repairs and/or replacement	
Graffiti		provide graffiti clean-up as necessary
Irrigation		routine operation, annual start up and shut down
Signs	repair/replace as needed	
Trails	repair/replace all trails inside and outside trailhead	minor repair/replacement of trails inside trailhead

Major Repairs are items that cost \$2000 or more  
Minor Repairs are items that are less than \$2000

No winter snow removal is planned



## ITEM NO. 9

### INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

**AGENDA ITEM NAME:** Ordinance – Amending Chapter 1 of the Superior Municipal Code / Code

**MEETING DATE:** March 14, 2011

**PRESENTED BY:** Matt Magley, Town Manager  
Kendra Carberry, Town Attorney

**PRESENTED FOR:** First Reading

**BACKGROUND:**

As part of the ongoing cleanup of the Municipal Code, staff has reviewed and is recommending needed changes to the above-referenced Chapter of the Town's Municipal Code. This is the last chapter of the Code that needs to be revised. Staff is recommending a number of changes as shown on the attached black-lined copy of the ordinance. The vast majority of these changes are not substantive – and either eliminates language that is redundant within the Code or otherwise stipulated in State Statute.

The most significant changes include:

- The definitions under Section 1.2.10 for Engineer, Law, Manager, May, Misdemeanor, Ordinance, Statute, Superior Municipal Districts, and Written are redundant and were deleted
- Sections 1-44 to 1-48 are not required and were deleted
- Sections 1-50 and 1-75 were redundant, this language can be found under Article III

**RECOMMENDED ACTION:** To approve the first reading of the ordinance; and schedule the second reading and final approval for March 28<sup>th</sup>.

**PROS:**

- Clarifies numerous ambiguities in the existing ordinance

- Eliminates language that is redundant within the Code or otherwise stipulated in State Statute

**CONS:**

- None

**ALTERNATIVES CONSIDERED:**

- Make no changes

**MOTION:** Move to approve the first reading of an Ordinance amending Chapter 1 of the Municipal Code.

**ATTACHMENTS:**

- Ordinance – black-lined

TOWN OF SUPERIOR  
ORDINANCE NO. O-\_\_\_\_  
SERIES 2011

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE  
TOWN OF SUPERIOR AMENDING CHAPTER 1 OF THE  
SUPERIOR MUNICIPAL CODE

NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF  
SUPERIOR, COLORADO:

Section 1. Chapter 1 of the Superior Municipal Code is  
hereby amended as follows:

ARTICLE I

Code

**Sec. 1-1-10. Adoption of Code.**

The published code known as the Superior Municipal Code, of which one (1) copy is ~~now~~ on file in the office of the Town Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This primary code has been promulgated by the Town of Superior, Colorado, as a codification of all the ordinances of the Town of Superior of a general and permanent nature ~~through Ordinance No. 96 O-4~~ for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form ~~for the use of the citizens and officers of the Town.~~

**Sec. 1-1-201-2. Purpose.**

The Board of Trustees finds, determines and declares that the ordinances codified in this *Code* ~~are Chapter~~ is necessary for the general health, safety and welfare of the community.

**Sec. 1-1-301-3. Title and scope.**

This Code shall be known as the *Superior Municipal Code*. This Code constitutes the adoption, compilation, revision and codification of all the ordinances of the Town of Superior, of a general and permanent nature, except for ordinances governing annexation, land use, zoning and subdivision.

**Sec. 1-4. ~~Adoption of codes by reference.~~**

~~Secondary codes may be adopted by reference, as provided by state law.~~

**Sec. 1-1-401-5. Repeal of ordinances not contained in Code.**

This Code contains all ordinances and portions of ordinances of general legislation which are of a permanent nature, except for ordinances governing annexation, land use, zoning and subdivision. All other ordinances of a general nature which are not included in this Code and portions of ordinances inconsistent

with any provision of this Code to the extent of such inconsistency are hereby repealed as of the effective date of the ordinance adopting this Code, except as hereinafter provided.

**Sec. 1-1-501-6. Matters not affected by repeal.**

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-40 4-5 above shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.

**Sec. 1-1-601-7. Ordinances saved from repeal.**

The continuance in effect of temporary ~~and~~ or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of the Code shall not repeal or amend any such ordinance or part of any such ordinance. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- (1) Creating, opening, dedicating, vacating or closing specific streets, alleys and other public ways.
- (2) Naming or changing the names of specific streets and other public ways.
- (3) Establishing the grades of specific streets and other public ways.
- (4) Establishing the grades or lines of specific sidewalks.
- (5) Annexing territory to or excluding territory from the Town.
- (6) Dedicating or accepting any specific plat or subdivision.
- (7) Calling or providing for a specific election.
- (8) Authorizing specific contracts for purchase of beneficial use of water by the Town.
- (9) Approving or authorizing specific contracts with the State, the County or the Superior Metropolitan Districts with other governmental bodies or with others.
- (10) Authorizing a specific lease, sale or purchase of property.
- (11) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (12) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
- (13) Setting rates, tolls and charges for any water, sewer, utility or proprietary fee, unless otherwise specifically set forth in this Code.
- (14) Appropriating money.
- (15) Levying a temporary tax or fixing a temporary tax rate.
- (16) Relating to salaries.

(17) Amending the Official Zoning Map.

**Sec. 1-8. ~~Changes in previously adopted ordinances.~~**

~~In compiling and preparing the ordinances of the Town for adoption and revision as part of the Code, certain grammatical changes and other changes were made in existing ordinances. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.~~

**ARTICLE II**

**Definitions and Usage**

**Sec. 1-2-101-21. Definitions.**

The following *terms shall have the following meanings throughout this Code words and phrases, whenever used in the ordinances of the Town of Superior and/or any codification of the same, shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:*

*Board of Adjustment* means the Board of Adjustment of the Town of Superior.

*Board of Trustees* ~~or Board~~ means the Board of Trustees of the Town of Superior.

*C.R.S.* means Colorado Revised Statutes, including all amendments thereto.

~~*Engineer* means the Town Engineer of the Town of Superior.~~

~~*Law* denotes applicable federal law, the Constitution and statutes of the State of Colorado, the ordinances of the Town, rules and regulations of other entities with jurisdiction and, when appropriate, any and all rules and regulations which may be promulgated thereunder.~~

~~*Manager* means the Town Manager of the Town of Superior.~~

~~*May* is permissive.~~

~~*Misdemeanor* means and is to be construed as meaning violation and is not intended to mean crime or criminal conduct.~~

*Month* means a calendar month.

*Must* and *shall* are both mandatory.

*Oath* shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *swear* and *sworn* shall be equivalent to the words *affirm* and *affirmed*.

~~*Ordinance* means a law of the Town; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.~~

*Owner* includes any person who alone, jointly or severally with others or as agent, executor, trustee or other representative capacity has legal or equitable title to any property.

*Person* means natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, representative, officer or employee of any of them.

*Personal property* includes money, goods, chattels, things in action and evidences of debt.

*Planning Commission* means the Planning Commission of the Town of Superior.

~~*Preceding and following* mean next before and next after, respectively.~~

*Property* includes real and personal property.

*Real property* includes lands, tenements and hereditaments.

*Sidewalk* means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

*State* means the State of Colorado.

~~*Statute* mean Colorado Revised Statutes, including all amendments thereto.~~

*Street* includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the Town which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

~~*Superior Metropolitan Districts* mean the districts formed within the Town of Superior in March 1988, with the approval of the Town. Superior Metropolitan District No. 1 (SMD No. 1) is responsible for providing water and sewer facilities to all or a portion of the Town; Superior Metropolitan District No. 2 (SMD No. 2) is responsible for providing street and park and recreation improvements within the Town of Superior generally north of Coalton Road but excluding the Original Town; and Superior Metropolitan District No. 3 (SMD No. 3) is responsible for providing street and park and recreation improvements south of Coalton Road within the Town.~~

*Tenant* and *occupant*, applied to a building or land, includes any person who occupies all or a part of such building or land, whether alone or with others.

*Town* means the Town of Superior, Colorado, or the area within the territorial limits of the Town of Superior, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

*Town Engineer* means the engineer of the Town of Superior.

*Town Manager means the Town Manager of the Town of Superior or his or her designee.*

*Unclaimed property means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the Town and which has not been claimed by its owner for a period of more than two (2) years after it became payable or distributable.*

~~Written includes printed, typewritten, photocopied or a facsimile, mimeographed or multigraphed, or otherwise reproduced in permanent visible form.~~

*Year means a calendar year.*

**Sec. 1-2-201-22. Computation of time.**

The time within which an act is to be done shall be computed by excluding the first and including the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday. ~~When the time for an act of less than seven (7) days, Saturday, Sunday and legal holidays shall be excluded.~~

~~**Sec. 1-23. Title of office.**~~

~~Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the Town, or his or her designated representative.~~

**Sec. 1-2-301-24. Usage of terms.**

~~All words and phrases~~ *terms that are not otherwise defined in this Code* shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning.

**Sec. 1-2-401-25. Grammatical interpretation.**

The following grammatical rules shall apply to *this Code* ~~Town ordinances~~ unless it is apparent from the context that a different construction is intended:

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural and the plural includes the singular.
- (3) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.

## ARTICLE III

### General

#### **Sec. 1-2-501-41. Titles and headings not part of Code.**

~~Title, Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code, may be inserted in supplements to the Code for the convenience of persons using the Code, and are not part of the Code.~~

#### **Sec. 1-42. Authorized acts by agents, representatives.**

~~When an act is required by this Code or an ordinance, the same being such that it may be done as well by an agent or representative as by the principal, such requirement shall be construed to include all such acts performed by any authorized agent or representative.~~

#### **Sec. 1-2-601-43. Construction of Code.**

The provisions of this Code, and all proceedings under it, are to be construed with a view to effect their objectives and to promote justice.

#### **Sec. 1-44. Repeal of ordinances.**

~~The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.~~

#### **Sec. 1-45. Publication of ordinances.**

~~All ordinances, as soon as may be after their passage, shall be recorded in a book kept for that purpose and authenticated by the signature of the Mayor and Town Clerk. All ordinances of a general or permanent nature, and those imposing any fine or forfeiture, shall be published. Such ordinances shall not take effect until thirty (30) days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health and safety and containing the reasons making the same necessary in a separate section. The excepted ordinances shall take effect upon their final passage, adoption and the approval and signature of the Mayor, if they are adopted by an affirmative vote of three-fourths ( $\frac{3}{4}$ ) of the members of the Board of Trustees.~~

#### **Sec. 1-46. Amendments to Code.**

~~Ordinances and parts of ordinances of a permanent and general nature, passed or adopted after the adoption of this Code, may be passed or adopted either in the form of amendments to the Code adopted with or without specific reference to the Code. However, in either case, all such ordinances and parts of ordinances shall be deemed amendments to the Code, and all of the substantive, permanent and general parts of said ordinances and changes made thereby in the Code shall be inserted and made in the Code as provided in Section 1-49 hereof.~~

#### **Sec. 1-47. Copy of Code on file.**

~~At least one (1) copy of the Code shall be kept in the office of the Town Clerk at all times, and such Code may be inspected by any interested person at any time during regular office hours, but may not be removed from the Town Clerk's office except upon proper order of a court of law.~~

**~~Sec. 1-48. Examination of Code.~~**

~~The copy of the Code as originally adopted or amended shall constitute the permanent and general ordinances of the Town and shall be so accepted by the courts of law, administrative tribunals and all others concerned.~~

**Sec. 1-2-701-49. Supplementation of Code.**

(a) The Town Clerk shall cause supplementation of the Code to be prepared and printed from time to time as the Clerk sees fit. All substantive, permanent and general parts of ordinances passed by the Board of Trustees or adopted by initiative and referendum, and all amendments and changes in ordinances or other measures included in the Code prior to the supplementation and since the previous supplementation, shall be included.

(b) ~~It shall be the duty of~~ the Town Clerk ~~shall~~ to keep up to date the copy of the ~~book containing the~~ Code required to be filed in the office of the Town Clerk for the use of the public.

**~~Sec. 1-50. Altering or tampering with Code; penalties for violation.~~**

~~Any person who shall alter, change or amend this Code, except in the manner prescribed in this Article, or who shall alter or tamper with the Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby shall, upon conviction thereof, be punishable as provided by this Chapter Section 1-72.~~

**Sec. 1-2-801-51. Severability.**

The provisions of this Code are declared to be severable, and if any section, provision or part thereof ~~is shall be~~ held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional matter had not been included therein. It is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to other persons shall not be affected thereby.

**ARTICLE III IV**

**General Penalty**

**Sec. 1-3-101-71. Violations.**

It is a violation of this Code *and unlawful* for any person to do any act which is forbidden or declared to be unlawful, or to fail to do or perform any act required, in this Code.

**Sec. 1-3-201-72. General penalty for violation.**

(a) No person shall violate any of the provisions of the ordinances of the Town or of this Code. Except in cases where a different punishment is prescribed by any ordinance of this Town or this Code, any person who violates any of the provisions of the ordinances of the Town or of this Code shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed one hundred eighty (180) days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-3-30 1-73; and provided further that no indigent person shall be punished by imprisonment unless he or she has been given the opportunity to be represented by counsel. In addition, such person shall pay all court costs imposed by the court.

(b) Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of ~~any provision of the ordinances of the Town or of this Code~~ is committed, continued or permitted by any such person and shall be punished accordingly.

**Sec. 1-3-301-73. Application of penalties to juveniles.**

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Chapter, shall be punished by a fine of not more than five hundred dollars (\$500.00) per violation or count.

**Sec. 1-3-401-74. Fines and penalties; plea of guilty or nolo contendere.**

Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

**Sec. 1-75. ~~Penalty for violations of ordinances adopted after adoption of Code.~~**

~~Any person who shall violate any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in the Code by a supplement, shall, upon conviction thereof, be punishable as provided by Section 1-72 or 1-73, unless another penalty is specifically provided for the violation.~~

**Sec. 1-3-501-76. Interpretation of unlawful acts.**

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful.

**Sec. 1-3-601-77. Authority to suspend fines; assess court costs.**

The Municipal Judge shall have the authority to suspend all or any portion of any fine upon finding of good cause therefor. The Municipal Judge shall assess court costs as the Judge determines are reasonable.

**Sec. 1-3-70 1-78. Collection of unpaid Municipal Court assessments.**

The Town Manager, ~~or his or her designee~~, is authorized to use any lawful method of collecting fines, fees, default judgments, personal recognizance bond forfeitures, civil penalties or any other unpaid amounts due from any person assessed such sums by the Municipal Court, including the reasonable costs of collection. Reasonable costs of collection shall include without limitation, the fees and costs of the Town Attorney, of private counsel, or of a collection agency, but such fees and costs shall not exceed twenty-five percent (25%) of the unpaid amount.

**ARTICLE IV**

**Inspections**

**Sec. 1-4-104-91. Entry.**

~~Whenever necessary to make an inspection~~ *To* enforce any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the Town, any ~~public~~ official of the Town may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her ~~by ordinance~~. ~~If in the event~~ the occupant, or if unoccupied, the owner, refuses entry to such building or premises, or the ~~public~~ official is unable to obtain permission of such occupant or owner to enter such building or premises, the ~~public~~ official *may* ~~is empowered to~~ seek assistance from any court of competent jurisdiction in obtaining such entry.

**Sec. 1-4-201-92. Authority to enter premises under medical emergency.**

Law enforcement officers, members of the Fire Department, other *officials* ~~fire departments~~ operating under a mutual assistance agreement or automatic aid agreement with the Town, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the Town without invitation from the occupant or occupants of the residence at any time such person has reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant or occupants of such premises are incapable of consenting to the entry because of such medical emergency.

**ARTICLE VI**

**Seal**

**Sec. 1-5-101-111. Seal description.**

The common seal of the Town shall be of circular shape in the center of which shall be the word "Seal" and with the words "The Town of Superior, Colorado" surrounding the word "Seal," and said seal above described is hereby established and declared to be the seal of the Town.

**Sec. 1-5-201-112. Town Clerk to be custodian of seal.**

~~The~~Said seal shall be kept in the office of the Town Clerk, who shall be the custodian thereof. It shall be the duty of the Town Clerk to affix said seal to all instruments hereinafter mentioned; provided, however, that any other person who shall have been specifically directed so to do by resolution of the Board of Trustees may affix said seal to any such instrument.

**Sec. 1-5-301-113. Seal to be affixed where.**

Said seal shall be affixed to all transcripts, orders or certificates which it may be necessary or proper to authenticate, under the provisions of the statutes in such cases made and provided, or any ordinance of the Town, and said seal shall be affixed to every contract or other instrument requiring the seal of the Town under any law of the State, or any ordinance of the Town.

**ARTICLE VII**

**Unclaimed Property**

**Sec. 1-6-101-131. Purpose.**

The purpose of this Article is to provide for the administration and disposition of unclaimed property which is ~~in the possession of or~~ under the control of the Town.

**Sec. 1-132. Definitions.**

~~Unless otherwise required by context or use, words and terms shall be defined as follows:~~

~~*Owner* means a person or entity, including a corporation, partnership, association, governmental entity other than the Town, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the Town.~~

~~*Unclaimed property* means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the Town and which has not been claimed by its owner for a period of more than two (2) years after it became payable or distributable.~~

**Sec. 1-6-201-133. Procedure for disposition of property.**

(a) Prior to disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more, the Town shall send a written notice by certified mail, return receipt requested, to the last known address, ~~if any, of the any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the Town department or agency holding the property.~~ The notice shall include a description of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. ~~The notice shall state where the owner may make inquiry of or claim the property.~~ The notice shall also state that if the owner fails to provide the Town with a written claim for the return of the property within sixty (60) days of the date of the notice, the

property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

(b) Prior to disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00) or having no last known address of the owner, the Town shall cause a notice to be published in a newspaper of general circulation in the Town. The notice shall include a description of the property, if known, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. ~~The notice shall state where the owner may make inquiry of or claim the property.~~ The notice shall also state that if the owner fails to provide the Town with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

(c) If the Town receives no written claim within the *time provided above sixty day claim period*, the property shall become the sole property of the Town and any claim of the owner to such property shall be deemed forfeited.

(d) If the Town receives a written claim within the *time provided sixty day claim period*, the Town Manager shall ~~evaluate the claim and~~ give written notice to the claimant within ninety (90) days ~~thereof~~ that the claim has been accepted or denied in whole or in part. The Town Manager may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

(e) ~~If In the event that~~ there is more than one (1) claimant for the same property, the Town may, in the Town Manager's sole discretion, resolve said claims ~~or may resolve such claims~~ by depositing the disputed property *in with* the registry of the District Court in an interpleader action.

(f) ~~If In the event that~~ all claims filed are denied, the property shall become the sole property of the Town and any claim of the owner of such property shall be deemed forfeited.

(g) Any legal action filed challenging a decision of the Town shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. ~~If any legal action is timely filed, the property shall be disbursed by the Town pursuant to the order of the Court having jurisdiction over such claim.~~

(h) The Town Manager is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this Article, including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

**ARTICLE VIII**

**Liens**

**Sec. 1-7-101-151. Unpaid charges a lien.**

Failure to pay any fees and charges due the Town shall be a *first and prior* lien upon the property for which any services or benefit was provided by the Town, giving rise to such charge. ~~The owner of every building, premises, lot or house shall be liable for all fees and charges due the Town, which lien or liability may be enforced by the Town by action at law or suit to enforce the lien, and the owner thereof shall not be relieved of such obligations and lien for services provided to a tenant in possession of any premises or building and the Town shall not be required to look to any person whatsoever other than the owner for the payment of any charges. No change of ownership or occupation shall affect the application of this Article and the failure of any owner to learn that he or she purchased property against which a lien exists shall in no way affect his or her liability for such payment in full.~~ The amount due and in default shall, in addition to said right of enforcement by disconnection of service, become a *first and prior* lien on of the property and premises so served to the amount of the charges from the date the same accrued and became due and payable; and said delinquent payments shall be enforced by assessment upon the property and premises so served and certification thereof to the County Treasurer for collection in the same manner as though they were part of the taxes.

**Sec. 1-7-201-152. Interest on unpaid balances.**

The Town shall charge interest at the rate of eighteen percent (18%) per year (one and one half percent [1.5%] per month) on the balance due of any fees owed to the Town pursuant to this Code or any other applicable law, which have not been paid within thirty (30) days of *the date due* ~~a statement for such fees from the Town.~~

**Section 2. Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

**Section 3. Safety.** This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

**INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this**  
**\_\_\_\_\_ day of \_\_\_\_\_, 2011.**

---

Andrew Muckle, Mayor

**ATTEST:**

---

Phyllis L. Hardin, Town Clerk-Treasurer