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P.O. BOX 706. DEMING, NEW MEXICO 88031
POPULATION 14,000

CITY COUNCIL MEETING

January 13, 2014

4:00 P.M. CITY COUNCIL WORKSHOP

6:00 P.M. CITY COUNCIL MEETING

AGENDA

Call to Order/Pledge of Allegiance

1. Consent Agenda
 - A. Minutes - City Council Workshop and Regular Meeting 12/09/13
 - B. Minutes – City Council Emergency Meeting 12/18/13
 - C. Minutes - Planning and Zoning Commission Meeting 12/16/13 (*meeting cancelled*)
 - D. Minutes - Tourism Development Committee (*no meeting scheduled*)
 - E. Minutes – Airport Commission Meeting 12/12/13
 - F. Minutes – Marshall Memorial Library Board Meeting 12/03/13
 - a. Recommendation to approve the purchase and presentation of plaques for dedication to Eugene Simons and Dr. Huntley.
 - G. Minutes - Parks Commission Meeting (*no meeting scheduled*)
 - H. Resolution Adopting the City Section 3 Plan
 - I. Resolution Adopting the City Residential Anti-Displacement and Relocation Assistance Plan
 - J. Resolution Adopting the City Citizen Participation Plan
 - K. Resolution To Determine what Constitutes Reasonable Notice of Public Meetings as Required by the Open Meetings Act, Section 10-15-1 (D)
 - L. Resolution Adopting Regulations Regarding the Procurement Process
 - M. Resolution: Adopting Regulations Governing The Per Diem and Mileage Act Pursuant to NMAC 2.42.2
2. Public Forum
3. Ratification of Proclamation to Honor Virginia Pool
4. Oath of Office-Robert Sweetser Firefighter/EMT Basic
5. Approval of Election Precinct Board for 2014 Municipal Election
6. Acceptance of the June 30, 2013 Financial Audit
7. Resolution to Approve Budget Adjustments for FY14
8. Ratification of Appointment of Third Member to the Labor Management Relations Board
9. Resolution Adopting a Correction to the Infrastructure Capital Improvements Plan (ICIP) for the City of Deming, New Mexico
10. Amendment to Resolution No. 13-31 Resolution For Participation In Local Government Road Fund Program Administered By New Mexico Department Of Transportation
11. Public Hearing to Consider the Adoption of and Ordinance to Grant a Gas Franchise Agreement

12. Public Hearing to Consider an Amendment to the City of Deming Municipal Code, Title 13, Adding a New Section, Chapter 7, "City of Deming Platting Jurisdiction."
13. Quasi-Judicial Public Hearing to Consider an Alternate Subdivision Request for lot line adjustments at 700 W Birch
14. Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Livestock Sale Facility at 265 Tapia Road SE
15. Bids:
 - a. Re-Bid No. 14-07 - Low Bid Recommendation for Construction of Pine/Spruce Intersection Realignment
16. Adjourn Meeting

The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., February 10, 2014.

CITY COUNCIL WORKSHOP MINUTES January 13, 2014

Council Present: Linda Franklin, Mayor Pro Tem

Council Absent: Andres Z. Silva, Mayor
William Shattuck, Councilor

Joe "Butter Milo, Councilor
David Sanchez, Councilor

Staff Present: Richard F. McInturff, City Administrator
Aaron Sera, Asst. City Administrator
Wesley Hooper, Community Svcs. Dir.
Lloyd Valentine, Financial Svcs. Mgr.

Edgar Davalos, Fire Chief
Brandon Gigante, Police Chief
Gina Gentile, City Planner
Patsy Rodriguez, Receptionist

Recording Secretary: Lila Jasso, Administrative Secretary/Assistant Deputy Clerk

Mayor Pro Tem Franklin and staff members of the City of Deming, New Mexico held a workshop on January 13, 2014 at 4:00 p.m. to discuss items of the City Council Agenda in preparation for the regularly scheduled meeting, held at 6:00 p.m. the same day. The following items of the agenda were discussed:

Consent Agenda: Mayor Pro Tem Franklin asked if the items H. through M. should be read into record. Mr. McInturff stated that they did not have to be read into record as they would be adopted by the Council once the Consent Agenda is approved.

Mayor Pro Tem Franklin pointed out a typographical error that in the Airport Minutes. Mr. McInturff stated that on page three of the Airport Minutes, after the Fuel Farm heading, a heading needs to be added for the next section regarding the Medevac lease. Mr. Hooper concurred and that will be corrected.

Mr. Sera stated that on the Library Board Minutes of December 3, 2013, he was not present at the meeting so the attendance record should reflect that. Also, his title needs to be corrected to Assistant City Administrator.

Mr. McInturff mentioned that in item K., Resolution to Determine what Constitutes Reasonable Notice of Public Meetings as Required by the Open Meetings Act, Section 10-15-1 (D); in number 2. a change was made to remove the last sentence of that section.

Ratification of Proclamation to Honor Virginia Pool: Mayor Pro Tem Franklin will present this item.

Oath of Office-Robert Sweetser Firefighter/EMT Basic: Mayor Pro Tem Franklin will swear in Mr. Sweetser.

Approval of Election Precinct Board for 2014 Municipal Election-Mr. McInturff will present this item to Council for their approval.

Acceptance of June 30, 2013 Financial Audit: Mr. McInturff will present this item to Council.

Resolution to Approve Budget Adjustments for FY14: Mr. McInturff stated that Mr. Valentine will present this item to Council. Mr. McInturff stated that the budget adjustments are due to funds that were bequeathed to the Library.

Ratification for Appointment of Third Member to the Labor Management Relations Board: Mayor Pro Tem Franklin will read her memo nominating the third member to this board.

Resolution Adopting a Correction to the Infrastructure Capital Improvements Plan (ICIP) for the City of Deming, New Mexico: Mr. Sera will present this item to Council.

Amendment to Resolution No. 13-31 Resolution for Participation in Local Government Road Fund Program by New Mexico Department of Transportation: Mr. Massengill or Mr. Sera will present to Council.

Public Hearing to Consider the Adoption of an Ordinance for a Gas Franchise Agreement: Mr. McInturff will present this item to Council. He stated that this item is being presented once more, due to some minor wording changes requested by the gas company.

Public Hearing to Consider an Amendment to the City of Deming Municipal Code, Title 13, Adding a New Section, Chapter 7, "City of Deming Platting Jurisdiction.": Mr. McInturff will present this item to Council.

Quasi-Judicial Public Hearing to Consider an Alternate Subdivision Request for a Lot Line Adjustment at 700 W. Birch: Ms. Gentile will present this case to Council.

Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Livestock Sale Facility at 265 Tapia Road SE: Ms. Gentile will present this case Council.

Re-Bid No. 14-07 – Low Bid Recommendation for Construction of Pine/Spruce Intersection Realignment: Mr. Massengill will present this item to Council for consideration. Mr. McInturff stated that this re-bid is due to the NMDOT rejecting all bids from the previous time.

Adjourn Meeting: With no further business to discuss, the workshop was adjourned at 4:24 p.m.



CITY OF DEMING, NEW MEXICO

Linda E. Franklin

Linda E. Franklin, Mayor Pro Tem

ATTEST:

Richard F. McInturff

Richard F. McInturff, Clerk

CITY COUNCIL MEETING MINUTES

January 13, 2014

Council Present: Linda Franklin, Mayor Pro Tem
David Sanchez, Councilor
Joe "Butter" Milo, Councilor
Bill Shattuck, Councilor

Council Absent: Andres Z. Silva, Mayor

Staff Present: Richard F. McInturff, City Administrator
Wesley Hooper, Community Svcs. Dir.
Jim Massengill, Public Works Director
Lloyd Valentine, Financial Svc. Mgr.
Jim Foy, City Attorney
Aaron Sera, Asst. City Administrator
Brandon Gigante, Police Chief
Edgar Davalos, Fire Chief
Gina Gentile, City Planner

Recording Secretary: Lila Jasso, Administrative Secretary/Asst. Deputy Clerk

Mayor Pro Tem Franklin called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

1. Consent Agenda

Mayor Pro Tem Franklin asked Council if they had any items they would like to discuss on the Consent Agenda. There were none. Mayor Pro Tem Franklin entertained a motion for the Consent Agenda.

Councilor Shattuck motioned to approve the Consent Agenda, as presented. Councilor Milo seconded the motion, motion carried unanimously.

2. Public Forum

A public comment session was entertained.

3. Ratification of Proclamation to Honor Virginia Pool

Mayor Pro Tem Franklin presented the Proclamation to Honor Virginia Pool. She read the proclamation into record in which the City Council of Deming recognized Mrs. Pool for her significant contributions made at the Deming Luna Mimbres Museum, Historical Society and community.

Councilor Shattuck motioned to ratify the proclamation to honor Mrs. Pool. Councilor Milo seconded the motion, motion carried unanimously.

4. Oath of Office Swearing In Robert Sweetser Firefighter/EMT Basic

Mayor Pro Tem Franklin swore in Mr. Robert Sweetser to the Deming Fire Department as he has completed his Firefighter/EMT Basic training.

5. Approval of Election Precinct Board for 2014 Municipal Election

Mr. McInturff presented the list of the election precinct board to Mayor Pro Tem Franklin and Council. Mr. McInturff recommends that Council approve the election precinct board for the 2014 Municipal Election.

Councilor Milo made a motion to approve the Election Precinct Board for the 2014 Municipal Election. Councilor Shattuck seconded the motion, motion carried unanimously.

6. Acceptance of the June 30, 2013 Financial Audit

Mr. McInturff referred to the letter address to the City from the Office of the State Auditor, in which it is stated that the City of Deming's audit report was received by the Office of the State Auditor and has been completely reviewed. He also stated that the City of Deming governing authority must approve the audit at a public meeting, which is the reason for this presentation.

Mr. McInturff read the opinion from the report found on page 11. He stated that the opinion was a "clean opinion" for the City of Deming. Mr. McInturff stated that the total assets exceeded liabilities by \$92,139,885 at the close of the current fiscal year. He also noted that on page 15, third line from bottom, the change in net position is \$632,725.

Mr. McInturff referenced page 109, Report on Internal Control Compliances. He read from the report which stated a deficiency in internal control. Mr. McInturff noted the deficiencies on page 113, which gave a more detailed explanation. He stated that the auditors found a deficiency regarding the NMFA cash accounts not being allocated correctly. This was due to an NMFA loan which needed to be accounted separately from the operating fund account. He read management's response in which staff has set up additional procedures to account for restricted and unrestricted cash. He stated that this is mainly a classification issue between restricted and non-restricted funds.

Mr. McInturff noted the next deficiency was in internal control. He stated that the auditors found that blank checks were not adequately secured. Mr. McInturff stated that the blank checks were actually safety paper, not actual checks; since checks are printed at the time of issuance. He stated that the City has already complied with the auditor's recommendation and a lock has been installed on the cabinet with two personnel having keys. He went on to say that all stock is locked in the cabinet when checks are not being processed.

Mr. McInturff stated that Pledged Collateral was mentioned, not as a deficiency, but as an "other matter". Deposits at WHB not collateralized resulting in shortfall. He stated that management has corrected the pledged collateral to ensure a sufficient amount of securities are pledged for City balances at the bank.

Mr. McInturff stated that the City has grown in assets and net position for the year, and that the auditor's finding were minimal and have been addressed accordingly.

Councilor Shattuck motioned to approve the June 30, 2014 Financial Audit, as presented. Councilor Milo seconded the motion, motion carried unanimously.

7. Resolution to Approve Budget Adjustments for FY14

Mr. Valentine presented this item to Mayor Pro Tem Franklin and Council. He referred to the resolution and stated that due to donations that were received for the library, the City has found a need to create a special revenue fund named Library Donation Fund in order to properly track those donations which totaled \$87,679. Mr. Valentine read the resolution in to record.

Councilor Sanchez asked where the funds came from. Mr. Valentine stated that the funds were bequeathed to the Library by the Huntley Trust and the Simon Trust.

Mr. McInturff stated that the families will be acknowledged with plaques to be displayed at the library.

Councilor Sanchez motioned to approve the resolution approving the budget adjustment for FY14. Councilor Shattuck seconded the motion, motion carried unanimously.

8. Ratification of Appointment of Third Member to the Labor Management Relations Board

Mr. McInturff explained that at the beginning of each year, the Deming Fire Fighters and Police Associations decide on their representative to the Labor Management Relations Board and the City appoints the management member to the same board. He stated that those two individuals then should decide on a third neutral member to the board. Mr. McInturff stated that at this time, the two individuals who were appointed have not come to a decision on the third member. Therefore, Mayor Pro Tem Franklin is recommending that Mr. Kevin Zachek be appointed as the third neutral member. He stated that Mr. Zachek has served on the board in the past and has experience on the board. Mr. McInturff stated that if, at a later date, the two original parties agree on a third member, that recommendation will then come to Council for ratification.

Councilor Milo motioned to ratify the appointment of Mr. Kevin Zachek as the third neutral member of the Labor Management Relations Board. Councilor Shattuck seconded the motion, motion carried unanimously.

9. Resolution Adopting a Correction to the Infrastructure Capital Improvement Plan (ICIP) for the City of Deming, New Mexico

Mr. Sera explained the resolution to Mayor Pro Tem and Council. He read the resolution into record. He explained that the previously submitted ICIP Priority ranking list was in the wrong order. He stated that the DFA does not allow amendments to the ICIP, but do allow a correction. Therefore, if the resolution is approved, it will be submitted to the DFA with the Police Department New Roof/HVAC/Additions as priority #2. Mayor Pro Tem Franklin asked Mr. Sera to read the correct priority ranking list.

Councilor Shattuck motioned to approve the Resolution adopting a correction to the Infrastructure Capital Improvement Plan (ICIP) for the City of Deming, New Mexico, as presented. Councilor Sanchez seconded the motion, motion carried unanimously.

10. Amendment to Resolution No. 13-31 Resolution For Participation In Local Government Road Fund Program Administered By New Mexico Department Of Transportation

Mr. Massengill stated that this is an amendment for the scope of work change which was previously passed by Council in July. The previous scope of work was a lighting project, however that would require that the City have a lighting agreement in place with the NMDOT, which would take some time to get in place. Mr. Massengill stated that staff determined that the LGRF fund could be better utilized towards the MAP Project, which is the Florida Drainage Project. He stated that the LGRF funding, by changing the scope of work, could be used for Phase II of the Florida Drainage Project.

Mr. Massengill read the resolution into record. He stated the total minimum cost of the project will be \$46,640.00 to be funded in proportional share by the parties as follow:

- a. NMDOT's share shall be 75% or not exceed \$34,980.00
- b. City of Deming's proportional matching share shall be 25% or a minimum of \$11,660.00
- c. The City of Deming shall pay all costs, which exceed the total amount of \$46,640.00.

Councilor Milo asked what stopped the City from entering into a lighting agreement with the NMDOT. Mr. Sera explained that one of the major issues was that the NMDOT wanted the lighting agreement to state that the City would be responsible for all the lights on Pine Street, not just the one's the City was proposing to fix which would impose a large expense to on the City. Therefore, due to fact of time constraints, the City will continue to pursue lighting decisions with the NMDOT, and will hope to get it resolved soon.

Councilor Shattuck motioned to approve the Mayor's appointment of Linda E. Franklin to the Commission on Aging Board. Councilor Milo seconded the motion, motion carried unanimously.

11. Public Hearing to Consider the Adoption of an Ordinance to Grant a Gas Franchise Agreement

Mr. McInturff presented this item to Mayor Pro Tem Franklin and Council. He stated that this is the third time this is presented to Council for approval. Mr. McInturff pointed out the areas which New Mexico Gas Company services and stated that they were in the process of abandoning these areas. Mr. McInturff asked Mr. Massengill what the status on this abandonment is. Mr. Massengill stated that in his last communication with New Mexico Gas Company, they were still working on transferring the easements to the City. Mr. McInturff stated that the reason for the abandonment is that the gas line is getting old and with the few customers New Mexico Gas Company services in this area, it would be more economical for them to have the City assume those customers. Mr. McInturff stated that historically the City's

gas rates are somewhat lower than New Mexico Gas Company, so this should be an easy transition. Mr. McInturff noted the change from the previously approved franchise agreement. He stated that the change was that the effective date on the approved agreement dated back to the expiration date of the current agreement. By statute, the agreement cannot become effective until 30 days after it is approved. Therefore, New Mexico Gas Company has agreed to pay the franchise agreement back to the date the other previous expired.

Mayor Pro Tem Franklin opened the public hearing to public comment.

Edward Khanbajian, 1721 E. Pine, asked for clarification regarding the assumption of the customers serviced in the subject areas and whether this was being negotiated in the agreement. Mr. McInturff stated that the assumption of the customers was not being negotiated in this agreement, but it was discussed with the City and the City is willing to cooperate. He explained that the franchise agreement is to allow New Mexico Gas Company to enter upon the City's public right-of-way for a fee, which is the 3%. Mr. McInturff stated that the franchise agreement will be a 10 year contract.

Larry Caldwell, 711 N. Zinc, stated that he is okay with this franchise and had previously commented on this. He objects to section 4 of the agreement in which he noted the 3% franchise fee.

Mr. McInturff stated that New Mexico is an anti-donation state and that the City has to charge a fee. The fee is to the gas company and they are the ones who choose to pass it on to the consumer.

With no other public comments, Mayor Pro Tem Franklin brought the hearing back up to Council for a motion.

Councilor Shattuck motioned to adopt an ordinance to grant the Gas Franchise agreement, as presented. Councilor Milo seconded the motion, motion carried unanimously.

12. Public Hearing to Consider an Amendment to the City of Deming Municipal Code, Title 13, Adding a New Section, Chapter 7, "City of Deming Platting Jurisdiction."

Mr. McInturff presented this item to Council. He referred to the proposed ordinance in their packets. He read and stated that the purposed of this chapter are to clearly recognize and codify the city's authority to exercise its planning and platting authority within three (3) miles of its boundary; to ensure development within the planning and platting jurisdiction is compatible with city objectives and standards; to provide adequate open spaces for traffic, recreation, light and air; to manage distribution of population; and, to create conditions favorable to the health, safety and general welfare of the citizens.

Mr. McInturff went on to read that the Applicable Law gives authorization for the city's planning and platting authority three miles beyond the city boundary and for the regulations contained in this chapter is given in Sections 3-19-1 through 3-19-8 inclusive, NMSA 1978; and, Sections 3-20-1 through 3-20-16 inclusive, NMSA 1978.

He went on to read that Platting Jurisdiction: The city's planning and platting jurisdiction includes all lands within the city boundary as extended from time to time, and all lands within three (3) miles of the city's boundary as extended from time to time. However, for purposes of chapter 7 of this title, the planning and platting jurisdiction is that area of Luna County lying within three (3) miles of the city boundary as extended from time to time. A map showing the current three (3) mile planning and platting jurisdiction beyond the city boundary shall be available for viewing in the city Planner's office in the City Administration Building during normal business hours.

Mr. McInturff described the Approving Authorities as follows:

1. The Deming City Council is the planning authority for the city's three (3) mile planning and platting jurisdiction and it is the approval authority for all subdivisions within the city's platting jurisdiction.

2. The city planning and zoning commission shall consider all subdivision plats within the city's three (3) mile planning and platting jurisdiction and make recommendations to the city council.

3. The Luna County Commission is also the approval authority for any subdivision within the city's three (3) mile planning and platting jurisdiction, but not within the city's boundary, and its approval must be obtained in addition to that of the city planning authority, namely, the city council.

4. No plat of any subdivision within the three (3) mile planning and platting jurisdiction of the city may be filed in the office of the county clerk without such plat having been submitted to the city planning authority for approval.

Mr. McInturff stated that as it turns out both the City and County have authority in that area. As it currently stands, someone applying for a subdivision requirement would have to go through both the City process and County process and both have different standards. Mr. McInturff stated that this condition existed in Grant County and Silver City and Silver City decided to exercise its 3-mile authority. This made it difficult for developer and property owners to get a subdivision. It sometimes took up to 2 years to go through both processes. He went on to say that the City has tried, since 2006 to get a Joint Powers Agreement for the ETZ, so that people would not have to go through the dual process, but have been unsuccessful.

Mr. McInturff stated that under Section 13-7-10 Severability Clause it states that: In the event the city and Luna County enter into an agreement, at any time, regarding the processing of subdivisions within the city's three (3) mile platting jurisdiction or any part thereof, the provisions of this Chapter 7 shall be suspended during the term of said agreement. If such agreement in effect is terminated for any reason, the provisions of Chapter 7 shall continue in full force and effect. The suspension of the provisions of Chapter 7 and the condition for reinstatement of the provisions of Chapter 7 may form part of any platting agreement between the city and Luna County.

Mr. McInturff stated that he is regretful for having to propose this ordinance and having to come to this point, but he feels the City has to preserve its rights to have a say in the 3-mile area.

Councilman Milo asked for clarification about the ordinance. He asked if the City stands alone on this ordinance. Mr. McInturff stated that City stands alone on this ordinance. Mr. McInturff is hoping that in the future the City and County can come to an agreement and include subdivisions in the ETZ.

A discussion was entertained by Council regarding the County suspending the ETZ, in which the County Commission revoked the ETZ agreement at their December 2013 meeting.

Mr. McInturff would like to see the City and County come to an agreement regarding the zoning and then work on a plan to either keep the dual process or develop a unitary process in ETZ.

Mayor Pro Tem Franklin opened the public hearing up for public comment.

Larry Caldwell, 711 N. Zinc, stated that the ETZ was established to provide control expansion of cities. He stated that he doesn't think that the ETZ has controlled expansion of the city. He stated that if it's done anything, it has promoted sprawl and costs of utilities and services. He referenced 13-7-2 (C) (3) and stated that Luna County would be responsible for subdivision approval with the City's approval. He then stated that in 13-7-2(C) (4), the subdivision would have to be registered with the County Clerk, but it cannot be registered without the city planning authority. He stated that this ordinance does not solve ping-ponging in a subdivision sense. He proposed that Council reject this ordinance.

Edward Khanbabian, 1721 E. Pine, asked that since a dual process was mentioned, would a fee have to be paid to both entities involved in the process? Mr. Khanbabian asked if there have ever been any proposed subdivisions that the County approves and the City denies. Mr. McInturff explained that, in the past, the City and County had come to a gentleman's agreement that the City would have the right of first refusal on any subdivisions presented. However, with the motion made by the County Commission back in December 2013, the County would handle all the agreement and there would be no process. Mr. McInturff went on to say that for the City to protect its interest in the 3-mile area, this ordinance would need to be adopted. Mr. Shattuck interjected and gave Mr. Khanbabian an example of opening a pig farm right outside the City limits, and the City would not have any say, if the ordinance is not adopted. Mr. McInturff stated that there has been some discussion and the County is reconsidering its action back in December. He stated that he feels optimistic that the City and County will go forward with something, but this ordinance is to put something in place that protects the City, in case an agreement cannot be reached between both parties.

Mayor Pro Tem Franklin closed the public comment session and asked if any member of Council was prepared to make a motion on this item.

Councilor Shattuck motioned to amend the City of Deming Municipal Code, Chapter 13, to add Chapter 7, City of Deming Three (3) Mile Planning and Platting Jurisdiction, as presented. Council Sanchez seconded the motion, motion carried unanimously.

13. Quasi-Judicial Public Hearing to Consider an Alternate Subdivision Request for lot line adjustments at 700 W Birch

Mayor Pro Tem Franklin called the public hearing to consider an Alternate Subdivision request for a lot line adjustment at 700 W. Birch to order. She confirmed that Council had no conflicts of interest; that the public notices were properly posted; and swore in all parties who would be giving testimony.

Ms. Gentile, City Planner, presented the case to Council. She stated that the applicant, Kathryn Hodson, is requesting a lot line adjustment, to provide an additional 24 ft. by 77 ft. yard for the home at 700 W. Birch Street. The applicant owns both properties; however the house at 700 W. Birch Street was built on the property line and have virtually no yard. The proposed lot line adjustment will allow some yard and provide an opportunity for proper egress in the event of an emergency. She stated that the applicant is seeking this at this time because she is planning selling the adjacent property. Ms. Gentile stated that staff recommends approval of this request.

A discussion as entertained by Council for staff regarding the proposed boundary line in order to get more clarification.

Mr. Massengill asked if we know if the existing utility lines are going across the proposed property line adjustment. Ms. Gentile stated that she is not sure but would mention that to the applicant and bring it to her attention. Mr. McInturff asked about the 24 ft. lot since all City lots are 25 feet. He asked if there is currently a one foot encroachment. Ms. Gentile said she would verify these questions for clarification.

With no further comments or questions, Mayor Pro Tem Franklin asked Council if they were prepared to make a motion on this request.

Councilor Shattuck motioned to approve the Alternate Subdivision Request for the lot line adjustments at 700 W. Birch, with staff verifying and confirming the 1 foot discrepancy between lot 2 and lot 3 and obtaining clarification. Councilor Milo seconded the motion, motion unanimously carried by roll call vote.

ROLL CALL VOTE

Councilor Milo	Aye
Councilor Shattuck	Aye
Councilor Sanchez	Aye

Mayor Pro Tem Franklin stated the decision announced by the authorities will be effective after the written order is executed and filed with both the Municipal and County Clerk. Any action of the City Council in approving conditionally approving or denying this application may be appealed to the District Court within 15 calendar days.

14. Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Livestock Sale Facility at 265 Tapia Road SE

Mayor Pro Tem Franklin called the public hearing to consider a Special Use Permit for a Livestock Sale Facility at 265 Tapia Road SE to order. She confirmed that Council had no conflicts of interest; that the public notices were properly posted; and swore in all parties who would be giving testimony.

Ms. Gentile, City Planner, presented this case to Council. She stated that the applicant, Bill Smyer is purchasing this property and wishes to continue the use as it has been in the past. However, the land is zoned commercial, and the previous use had been grandfathered in. However, that non-conforming use did not continue and lapsed after 2 years, therefore the special use permit will be required. The Planning Commission recommended the case for approval with the condition that the facility will not be used as a feedlot. The applicant states that the business is cattle brokering, that the cattle will be brought in once a week, and will be shipped out within 3 days. She went on to say that these representations should be recorded as to the extent and scope of activities allowed upon the property. Also, the applicant will have to return to Council for any modifications pertaining to the use.

Ms. Gentile stated that staff recommends approval of this request with conditions that the facilities be specifically used for cattle brokering, the property will be kept in sanitary condition and that not cattle or any specific cow will remain on the premises for more than 3 days at a time and applicant return to Council for any modifications pertaining to use.

Mayor Pro Tem Franklin asked all parties if they had any comments or questions. There were none.

Mayor Pro Tem Franklin opened the hearing to questions from Council to the applicant.

Councilor Sanchez asked the applicant about inspections for cleanliness and whether they would institute a pest control plan. The applicant said they did not have a plan in place, but could institute one once approved.

Mayor Pro Tem Franklin opened the comment to other parties for staff.

Larry Caldwell, 711 N. Zinc, stated that the caveat would be that the applicant could not feed the cattle for 3 days. Ms. Gentile stated that the applicant would be able to feed and water the cattle but could not be housed for more than 3 days. Mayor Pro Tem Franklin stated that the applicant could humanely take care of the animals for 3 days, but the business would not be a feed lot. Mr. Caldwell asked for clarification and assurance that the animals would be fed and watered during the 3 days and that he was not in opposition of this permit.

Edward Khanbajian, 1721 E. Pine, asked for clarification on the location. He also asked why the 3 day limit is imposed, if the location had been used for long term in the past. Mr. Hooper stated that the location had never been used as a long term facility in the past and that there will never be a large amount of cattle at the facility. Ms. Gentile stated that the location will be used only for brokering and if they decide to conduct sales, the applicant must come in for a modification of use.

Mr. McInturff stated that the owner would need to come in for a modification of use if the use changes to anything other than cattle brokering.

With no other questions or comments, Mayor Pro Tem Franklin closed the public comment and asked if any member of Council was prepared to make a motion on this case.

Councilor Shattuck motioned approve the Special Use Permit for Cattle Brokering at 265 Tapia Rd. SE, with the facility to be used for cattle brokering, that property be kept in sanitary condition, that no cattle or livestock be kept on the premises for more than 3 days and if the applicant wishes to modify this it must be brought back to Council for approval. Councilor Sanchez seconded the motion, motion carried unanimously with a roll call vote.

ROLL CALL VOTE

Councilor Shattuck	Aye
Councilor Milo	Aye
Councilor Sanchez	Aye

Mayor Pro Tem Franklin stated the decision announced by the authorities will be effective after the written order is executed and filed with both the Municipal and County Clerk. Any action of the City Council in approving conditionally approving or denying this application may be appealed to the District Court within 15 calendar days.

15. Bids:

a. Re-Bid No. 14-07 - Low Bid Recommendation for Construction of Pine/Spruce Intersection Realignment

Mr. Massengill presented this item to Council. He stated that three bids were received for the above mentioned Re-Bid Number and opened on December 31, 2013. Deming Excavating, Inc. submitted the lowest combined construction bid package for the Base Bid and Additive Alternate #1 at \$1,109,139.80 excluding NMGRT. Following an initial bid package review, Deming Excavating, Inc. is in compliance with the bid requirements and is qualified to perform the required work. The Notice of Award will not be issued until NMDOT completes an independent review of the bid package, currently in progress. Staff expects to receive NMDOT concurrence (or non-compliant bidder) by the end of January.

The bid recommendation, bid summary, and Summary of Proposals Received are attached.

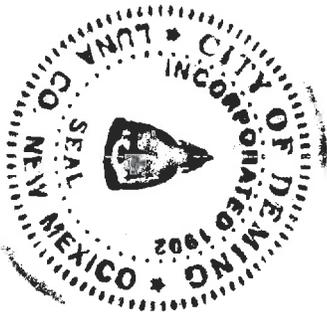
Mr. Massengill stated that staff recommends awarding the construction bid to Deming Excavating, Inc. pending NMDOT concurrence and approval to proceed with construction. Upon NMDOT concurrence, Staff would like authorization for the Public Works Director and/or Assistant City Administrator to enter into an agreement with Deming Excavating, Inc. and execute any documents related to this project.

Mr. Massengill stated that on this second round of bids, the price increased by approximately \$90,000.

Mr. Massengill referenced the diagram of the intersection improvements and explained the scope of work to Council. He stated that the base bid will include all underground infrastructure for the overhead signal light, and once a traffic study is conducted, will determine if an overhead traffic signal is warranted.

Councilor Shattuck motioned to approve the Re-Bid No. 14-07-Construction of Pine/Spruce Street Intersection Realignment to Deming Excavating, Inc. for a total amount of \$1,109,139.80 excluding NMGRT pending NMDOT approval and giving staff authorization to enter into an agreement with Deming Excavating, Inc. and execute any documents related to this project. Councilor Milo seconded the motion, motion carried unanimously.

16. Adjourn Meeting: With no further business to discuss, Councilor Milo motioned to adjourn the meeting. Councilor Sanchez seconded the motion, motion carried. Meeting was adjourned at 8:05 p.m.



CITY OF DEMING, NEW MEXICO

Linda E. Franklin, Mayor Pro Tem

ATTEST:

Richard F. McInturff, Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-01**

**A RESOLUTION TO ADOPT
THE CITY OF DEMING SECTION 3 PLAN**

WHEREAS, the City of Deming is committed to comply with Section 3 of the Housing and Urban Development Act of 1968. This Act encourages the use of small local businesses and the hiring of low income residents of the community; and

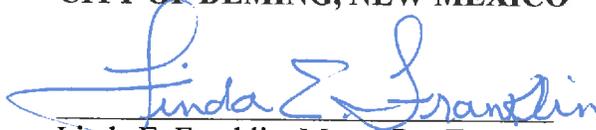
WHEREAS, in accordance with CDBG Regulations the City's Section 3 Plan must be updated annually;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Deming, New Mexico, that it hereby adopt the attached Section 3 Plan.

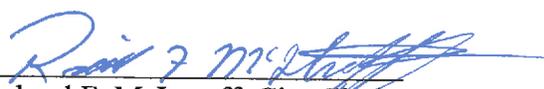
PASSED, APPROVED and ADOPTED this 13th day of January, 2014.



CITY OF DEMING, NEW MEXICO


Linda E. Franklin, Mayor Pro Tem

ATTEST:


Richard F. McInturff, City Clerk

CITY SECTION 3 PLAN

The City of Deming is committed to comply with Section 3 of the Housing and Urban Development Act of 1968. This Act encourages the use of small local businesses and the hiring of low-income residents of the community.

The City of Deming has appointed the City Administrator as the Section 3 Coordinator, to advise and assist key personnel and staff on Section 3, to officially serve as focal point on Section 3 complaints, as the on-site monitoring of prime contractors and sub-contractors to ensure the implementation and enforcement of their Section 3 plans. The approval or disapproval of the Section 3 plan is the ultimate responsibility of the City. Documentation of City efforts will be retained on file for monitoring by the State.

Therefore, the City of Deming shall:

1. Hiring
 - (a) Advertise for all City positions in local newspapers.
 - (b) List all City job opportunities with the State Employment Service.
 - (c) Give preference in hiring to lower income persons residing in the City. This means that if two equally qualified persons apply and one is a resident of the City and one is not, the resident will be hired.
 - (d) Maintain records of City hiring as specified on this form.

Anticipated City Hiring 2014

Job Classification	Planned		Actual	
	# of Positions to be Filled	# of Positions to be Filled by Lower Income City	# Positions Filled	# of Positions Filled by Lower Income City
Laborer	4	4		
Skilled Craft	6	6		
Clerical	4	4		

2. Contracting

- (a) The City will compile a list of businesses, suppliers and contractors located in the City.
- (b) These vendors will be contacted for bid or quotes whenever the City requires supplies, services or construction.
- (c) Preference will be given to small local businesses. This means if identical bids/quotes are received from a small business located within the City and one from outside the City, the contract will be awarded to the business located within the community.

3. Training

The City shall maintain a list of all training programs operated by the City and its agencies and will direct them to give preference to City residents. The City will also direct all CDBG sponsored training to provide preference to City residents.

4. CDBG Contracts

All CDBG bid packages and contracts shall include the following Section 3 language:

- (a) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower residents of the project areas and contracts for work in connection with the project be awarded to business concerns residing in the project area.
- (b) The parties to this contract will comply with the provision as said Section 3 and the regulation issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- (c) The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or

training.

- (d) The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or recipient of, Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135, and will not let any subcontract unless the subcontractor has first provided it with the requirements of these regulations.
- (e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department, issued there under prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

The City shall require each contractor to prepare a written Section 3 Plan as a part of their bids on all jobs exceeding \$100,000. All Section 3 Plans shall be reviewed and approved by the City's Equal Opportunity Section 3 Compliance Officer and maintained in said office for monitoring by the State.

The City of Deming will maintain all necessary reports and will ensure that all contractors and subcontractors submit required reports.

LOWER INCOME CLARIFICATION

A family who resides in Deming, New Mexico and whose income does not exceed the income limit for the size of family as per the attached Section 8 Income Limit for Luna County. Information contained in our Section 3 Plan reflects the status of the City employees regarding lower income considerations based on their salary paid by the City.

As approved by City Council, January 13, 2014 by resolution.

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO: 14-02**

**A RESOLUTION TO ADOPT
THE RESIDENTIAL ANTI-DISPLACEMENT
AND RELOCATION ASSISTANCE PLAN**

WHEREAS, the prepared Anti-displacement and Relocation Assistance Plan represents the effort of the City of Deming to comply with the requirements of Section 104(d) of the Housing and Community Development Act of 1974 as amended.

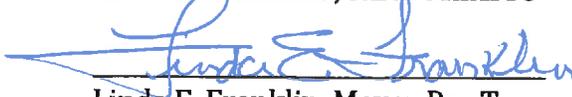
WHEREAS, the U.S. Department of Housing and Urban Development has advised that all recipients of CDBG funds, must certify that the entity is following or hereafter will be following a Residential Anti-Displacement and Relocation Assistance Plan; and

NOW, THEREFORE BE IT RESOLVED THAT the City of Deming does hereby adopt the attached Residential Anti-displacement and Relocation Assistance Plan.

PASSED, APPROVED, and ADOPTED this 13th day of January, 2014 by the City Council of Deming, New Mexico.



CITY OF DEMING, NEW MEXICO


Linda E. Franklin, Mayor Pro Tem

ATTEST:


Richard F. McInturff, City Clerk

RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN & CERTIFICATION

Section 104(d) of the Housing and Community
Development Act of 1974, as Amended

Section 509 of the Housing and Community Development Act of 1987 (Public Law 100-242, approved February 5, 1988) amended Section 104 of the Housing and Community Development Act of 1974 (the Act) by adding a new subsection (d).

The new subsection 104(d) of the Act provides that a grant under Section 106 (CDBG Programs) may be made only if the grantee certifies that it is following a “residential antidisplacement and relocation plan.”

Local governments, recipients under the State CDBG Program, must make this certification to the State. The requirement applies only to those recipients of CDBG funds from awarded to the State by HUD after October 1, 1988.

ACCORDINGLY, the foregoing plan represents the effort of the City of Deming to comply with the requirements of Section 104L(d) of the Act and is certified herewith:

PLAN AND CERTIFICATION

The City of Deming herewith certifies that it will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.496 a(b).

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the City of Deming will make public and submit to the Local Government Division of the Department of Finance and Administration the following information in writing:

1. A description of the proposed activity;
2. The location on a map and the approximate number of units, described by size (number of bedrooms), that will be demolished or converted;
3. A time schedule for commencement and completion of the demotion or conversion;

4. The location on a map and the approximate number of dwelling units described by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source(s) of funding and a time schedule for the provision of replacements units; and
6. The basis for concluding that each replacement unit will remain a low/moderate-income dwelling unit for ten (10) years from the date of initial occupancy.

The City of Deming will provide relocation assistance, as described in 570.496-a to each low/moderate-income household displaced by the demolition of housing or by the conversion of a low/moderate-income dwelling to another use as a direct result of assisted activities.

To other extent which the City of Deming participates in Federal Assistance Programs wherein the following antidisplacement strategies can be applied, and consistent with the goals and objectives of activities assisted under the Act, the City of Deming will take the following steps to minimize the displacement of persons from their homes (this listing not all inclusive):

DISPLACEMENTS STRATEGY

- A. Steps to Minimize or Prevent Displacement:
 1. Plan, organize and stage the rehabilitation of assisted housing to allow tenants to remain during and after rehabilitation so as to provide the greatest convenience, safe and economically sound rehabilitation effort possible.
 2. Assist in the identifying and locating of temporary relocation facilities in order to house families whose displacement will be of short duration, so that they can move back to their neighborhood after rehabilitation or new construction.
 3. Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent the placing of undue financial burdens on long established owners or on tenants of multi-family buildings.
 4. Counsel and advise homeowners and renters to understand the range of assistance that may be available to meet and protect their housing rights and interests.
 5. In cooperation with neighborhood organizations, continuously review neighborhood development trends, identify displacement problems, and identify individuals facing displacement who need assistance.

- B. Actions to Assist Displaced Persons to Remain in Their Present Neighborhoods:
1. Provide lower-income housing in the neighborhood through HUD housing programs; purchase units as is; rehabilitate vacant units; or construct housing units.
 2. Give priority in assisted housing units in the neighborhood to area residents facing displacement.
 3. Target Section 8 existing programs and certificates to households being displaced, and recruit area landlords to participate in the program.
 4. Provide counseling and referral services to assist displaced find alternate housing in the neighborhood.
 5. Work with area landlords and real estate brokers to locate vacancies of households facing displacement.
- C. Actions to Otherwise Mitigate Adverse Effects of Displacement:
1. Use of public funds, such as CDBG, to pay moving costs and provide relocation payments or, to extent permissible by local or state law require private developers to provide compensation to persons displaced by development activities.
 2. Give displaced priority in obtaining subsidized housing.
 3. Provide counseling and referral service to assist displaced to locate elsewhere in the community.

It shall be the policy of the City of Deming that all persons displaced by CDBG activity shall be relocated into housing that is:

- a) Decent, safe and sanitary;
- b) Adequate in size to accommodate the occupants;
- c) Functionally equivalent;
- d) In an area not subject to adverse environmental conditions.

As approved by City Council, January 13, 2014 by resolution.

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-03**

**A RESOLUTION TO ADOPT
THE CITIZEN PARTICIPATION PLAN**

WHEREAS, in accordance with the 1987 revisions to the Housing and Community Development Act and in an effort to further encourage citizen participation, the City of Deming has prepared a Citizen Participation Plan.

WHEREAS, in accordance with the CDBG Regulations the City of Deming's Citizen's Participation Plan must be updated annually;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Deming, New Mexico that it hereby adopt the attached Citizen Participation Plan.

PASSED, APPROVED AND ADOPTED this 13th day of January, 2014.



CITY OF DEMING, NEW MEXICO

A handwritten signature in blue ink that reads "Linda E. Franklin".

Linda E. Franklin, Mayor Pro Tem

A handwritten signature in blue ink that reads "Richard F. McInturff".
Richard F. McInturff, City Clerk

COMMUNITY DEVELOPMENT BLOCK GRANT PROGAM CITIZEN PARTICIPATION PLAN

Introduction

In accordance with the 1987 revisions to the Housing and Community Development Act and in an effort to further encourage citizen participation, the City of Deming has prepared and adopted this Citizen Participation Plan.

Objective A

The City of Deming will provide for and encourage citizen participation within their areas of jurisdiction with particular emphasis on participation by persons of low and moderate income.

1. Adopt and circulate an Open Meetings Resolution which provides citizens with reasonable notice of City upcoming meetings, actions, functions.
2. Develop press releases on City meetings, actions and hearings and circulate to newspapers, radio and televisions media.
3. Develop and maintain listings of groups and representatives of low and moderate income persons and include on mailing lists for announcements, notices press releases, etc.

Objective B

The City of Deming will provide citizens with reasonable and timely access to local meetings, information and records relating to the proposed and actual use of CDBG funds.

1. Public notices, press releases, etc., should allow for a maximum length of notice to citizens.
2. Appropriate information and records relating to the proposed and actual use of CDBG funds must be available upon request to all citizens. Personnel and income records may be exempted from this requirement.
3. Meetings, hearings, etc., should be conducted at times and locations conducive to public attendance, i.e., evenings, Saturdays.

Objective C

The City of Deming will provide for technical assistance to groups and representatives of low and moderate-income persons that request assistance in developing proposals. (Special note: the level and type of assistance is to be determined by the City.)

1. Low/moderate income groups should be advised that technical assistance, particularly in the area of community development, is available from the City of Deming upon request.
2. The City of Deming will document all technical assistance provided to such groups and have documentation available for review.

Objective D

The City of Deming will provide for public hearings to obtain citizen participation and respond to proposals and questions at all stages of the Community Development Block Grant Program.

1. The City of Deming will advise citizens of the CDBG Program objectives, range of activities that can be applied for and other pertinent information.
2. The City of Deming will conduct a minimum of two public hearings:
 - a. One public meeting will be held for the purpose of obtaining the views of citizens on community development and housing needs to include the needs of low and moderate income people. This hearing will take place prior to the selection of the project to be submitted to the State for CDBG funding assistance.
 - b. A second public hearing will be held for the purpose of gaining citizen input on the particular application to be submitted to the State for CDBG funding consideration.
3. The City of Deming will review program performance, past use of CDBG funds and make available to the public its community development and housing needs including the needs of low and moderate-income families and the activities to be undertaken to meet such needs.
4. Public hearing notices will be published in the non-legal section of newspapers or in other local media. Evidence of compliance with these regulations will be provided with each CDBG application, i.e., hearing notice, minutes of public meetings, list of needs and activities to be undertaken, etc. Amendments to goal, objectives and applications are also subject to public participation.

Objective E

The City of Deming will provide for timely written answers to written complaints and grievances within 15 working days where practicable.

1. The City of Deming will adopt complaint-handling procedures of policies to insure that complaints or grievances are responded to within 15 days, if possible.
2. Procedures will allow for appeal of a decision to a neutral authority.
3. A detailed record of all complaints/grievances and responses will be filed in one central location with easy public access provided.

Objective F

The City of Deming will identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of residents can be reasonably expected to participate.

1. The City of Deming will identify areas where large majorities of non-English speaking persons reside and make appropriate provisions when issues affecting these areas are to be discussed at public meetings, hearings, etc. Appropriate provisions will include having interpreters available at the meeting and/or having briefing materials available in the appropriate language.
2. Maintain records/rosters of public hearing attendees and proceedings to verify compliance with this objective.

As approved by City Council, January 13, 2014 by resolution.

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-04**

**AN ANNUAL RESOLUTION DETERMINING WHAT CONSTITUTES
REASONABLE NOTICE OF PUBLIC MEETINGS HELD BY THE
GOVERNING BODY OF THE CITY OF DEMING
PER SECTION 10-15-1 (D) OF THE OPEN MEETINGS ACT**

WHEREAS, the City of Deming met in Regular session at Deming, New Mexico on January 13, 2014 at 6:00 p.m. as per law; and

WHEREAS, Section 10-15-1(B) of the Open Meeting Act (NMSA 1978, Sections 10-15-1 to -4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum or members of any board, council, commission or other policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the City of Deming to determine annually what constitutes reasonable notice of its public meetings.

NOW, THEREFORE, BE IT RESOLVED by the City of Deming that:

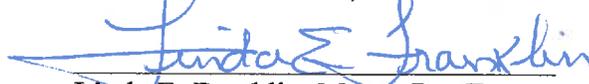
1. All regular meetings shall be held at the John Strand Municipal Building at 6:00 p.m. or as indicated on the meeting notice.
2. Regular meeting shall be held each month on the second Monday. A proposed agenda will be available the Friday before the meeting from the Municipal Offices, 309 South Gold Avenue, Deming, New Mexico.
3. Special meetings may be called by the Mayor or a majority of the Council members upon three (3) days notice.
4. Emergency meetings will be called only under circumstances, which demand immediate action to protect the health, safety and property of citizens. The City of Deming will avoid emergency meetings whenever possible. Emergency meetings may be called by the Mayor or a majority of the Council members upon twenty-four (24) hours notice, unless threat of personal injury or property damage requires less notice.

5. For the purpose of regular meetings described in paragraph 2 of this resolution, notice requirements are met if notice of the date, time, place, and general subject matter to be discussed is placed in newspapers of general circulation in the state.
6. For the purposes of special meetings and emergency meetings described in paragraphs 3 and 4 of this resolution, notice requirements shall be met by posting notices in the Municipal Building.
7. The City Council may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under Section 10-15-1 (H) of the Open Meetings Act.
 - a. If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the City Council taken during the open meeting. The authority for the closure and the subjects to be discussed shall be stated in the motion for closure and the vote on closure of each individual member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting; and
 - b. If the decision to hold a closed meeting is made when the City Council is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances and stating the specific provision of law authorizing the closed meeting the subjects to be discussed, is given to the members and to the general public; and
 - c. Except as provided in Section 10-15-1 (E), any action taken as a result of discussions in a closed meeting shall be made by vote of the City Council in an open public meeting.

PASSED, APPROVED AND ADOPTED by the City Council this 13th day of January 2014.



CITY OF DEMING, NEW MEXICO


Linda E. Franklin, Mayor Pro Tem


Richard F. McInturff, City Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-05**

**A RESOLUTION ADOPTING REGULATIONS REGARDING
THE PROCUREMENT PROCESS OF THE MUNICIPALITY
PURSUANT TO THE REQUIREMENTS OF THE PROCUREMENT
CODE (BEING SECTIONS 13-1-28 TO 13-1-199 NMSA 1978, AS
AMENDED) AND PUBLIC WORKS CONTRACTS (BEING
SECTIONS 13-4-1 TO 13-4-42 NMSA 1978, AS AMENDED)**

WHEREAS, the purpose of this Resolution is to adopt regulations to translate or define the general and specific requirements of the Procurement code; and

WHEREAS, the purpose of the Procurement Code are to provide for the fair and equitable treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity; and

WHEREAS, the governing body may adopt regulations through resolution or ordinance to effect the powers and duties granted the municipality by state law;

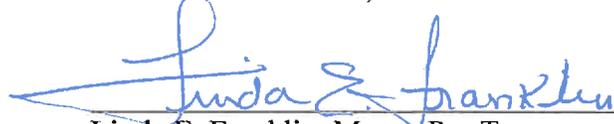
NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DEMING that the regulations cited above are the purchasing processes to be utilized by all officers and employees of the municipality through the Central Purchasing office in the procurement of tangible personal property, services and construction.

This Resolution supersedes any and all previous procurement guidelines in their entirety.

PASSED, APPROVED AND ADOPTED by City Council at its meeting on this 13th day of January, 2014.



CITY OF DEMING, NEW MEXICO


Linda E. Franklin, Mayor Pro Tem


Richard F. McInturff, City Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-06**

**TRAVEL & PER DIEM
ADOPTION OF NMAC 2.42.2 PURSUANT TO
10-8-5 and 9-6-5 NMSA 1978**

WHEREAS, the Travel and Per Diem Regulation governing the Per Diem and Mileage Act are promulgated in the New Mexico Administrative Code 2.42.2 which is in accordance with 10-8-1 thru 10-8-8 NMSA 1978; and,

WHEREAS, the Administrative Code pursuant to authority granted in Section 10-8-5(A) and 9-6-5(E) NMSA 1978 governs the payment of per diem rates and mileage and the reimbursement of expenses for salaried and non-salaried public officers and employees of state agencies and local public bodies.

NOW THEREFORE BE IT RESOLVED, that public officers and employees of the City of Deming shall be reimbursed for per diem and mileage and the reimbursable expenses in accordance with NMAC 2.42.2.1 thru 2.42.2.14 including appendices: and,

BE IT FURTHER RESOLVED, that adoption of Regulation 2.42.2 NMAC shall include subsequent amendments.

NOW THEREFORE BE IT FURTHER RESOLVED BY AND CERTIFIED BY THE UNDERSIGNED FOR AND ON BEHALF OF THE CITY.

PASSED, APPROVED and ADOPTED this 13th day of January, 2014.



CITY OF DEMING, NEW MEXICO

Linda E. Franklin, Mayor Pro Tem

Richard F. McInturff, City Clerk

STATE OF NEW MEXICO
MUNICIPALITY OF CITY OF DEMING

RESOLUTION NO. 14-07

2013-2014 Fiscal Year

WHEREAS, the City of Deming, New Mexico proposes to make certain budget increases and decreases; and,

WHEREAS, due to cash reserves being sufficient to cover the proposed increases and decreases; and

WHEREAS, said monies and expenditures were not included in the 2013-2014 budget; and

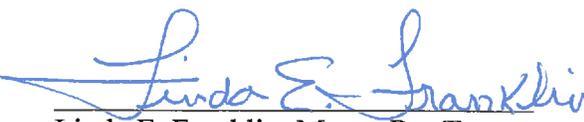
WHEREAS, the City Council does request that authorization for the following budget increases and decreases be granted.

THEREFORE IT IS respectfully requested that authorization to make the listed increases and transfers be granted by the Local Government Division of the Department of Finance and Administration.

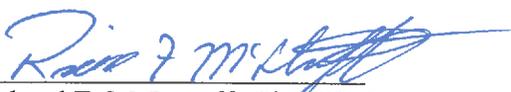
PASSED, ADOPTED, AND APPROVED this 13th day of January, 2014.



CITY OF DEMING, NEW MEXICO


Linda E. Franklin, Mayor Pro Tem

ATTEST:


Richard F. McInturff, City Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-08**

**RESOLUTION ADOPTING A CORRECTION IN THE
INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP)
PRIORITY RANKING FOR THE CITY OF DEMING, NEW MEXICO**

WHEREAS, the municipality of Deming recognizes that the financing of public capital projects has become a major concern in New Mexico and nationally; and

WHEREAS, in times of scarce resources, it is necessary to find new financing mechanisms and maximize the use of existing resources; and

WHEREAS, systematic capital improvements planning is an effective tool for communities to define their developments needs, establish priorities and pursue concrete actions and strategies to achieve necessary project development; and

WHEREAS, this process contributes to local and regional efforts in project identification and selection in short and long range capital planning efforts; and

WHEREAS, the City of Deming has submitted an Infrastructure Capital Improvement Plan to the Department of Finance Authority; and

WHEREAS, the submitted ICIP contained an error in the priority ranking for the Police Department Expansion project (new roof/HVAC/Additions).

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPALITY OF DEMING
That:

1. The municipality approves a correction for Police Department Expansion project to have a priority rating of number two and the current number two priority (Effluent Reuse and Irrigation Improvements Project) be ranked as the number four priority.
2. The top ten prioritized list for the City of Deming is attached hereto.

PASSED, APPROVED AND ADOPTED by the governing body at its meeting of January 13, 2014.



CITY OF DEMING, NEW MEXICO

Linda E. Franklin, Mayor Pro Tem

Richard F. McInturff, Administrator/Clerk

Top Ten ICIP Priority List

<u>Priority</u>	<u>ID#</u>	<u>Project Title</u>
1.	24081	Butterfield Trail Regional Landfill Cell Expansion
2.	24074	Police Department New Roof/HVAC/Additions
3.	15755	Sewer Lines Replacement
4.	26095	Effluent Reuse and Irrigation
5.	28024	Well Upgrades/Optimization/Conversion/SCADA
6.	26048	Deming Landfill Closure and Improvements
7.	13861	Cedar Street Expansion Phase IV
8.	22969	Tulip Drive Landfill Clean Up
9.	11541	Gas System Improvements-High Pressure Line (North)
10.	9680	Fire Dept. and City Hall-New Roof

RESOLUTION NO. 13-31-A

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND
PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF
TRANSPORTATION AMENDMENT - SCOPE OF WORK CHANGE**

WHEREAS, the City of Deming and the New Mexico Department of Transportation have entered into a Cooperative Agreement.

WHEREAS, the total minimum cost of the project will be \$46,640.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 75% or not exceed \$34,980.00
- and
- b. City of Deming's proportional matching share shall be 25% or a minimum of \$11,660.00.
- c. The City of Deming shall pay all costs, which exceed the total amount of \$46,640.00.

NOW THEREFORE, BE IT RESOLVED in official session that City of Deming determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on December 31, 2014 and the City of Deming incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City of Deming to change the scope of work of Cooperative Agreement Project Number SP-1-14 (909), Control Number HW2 L100117 with the New Mexico Department of Transportation for LGRF Project for year 2013-2014 from "Project development, design and maintenance & parts replacement to existing lighting, including lamps, ballasts, night light cut off heads" to new scope of work; **"Design and construction of concrete pavement intersections within the Florida Street Drainage Improvements – Phase II Project"**, **AND to extend the agreement termination date to December 31, 2015.** The Florida Street Project is further identified in Resolution 13-31, as passed and adopted by the City of Deming on September 9, 2013.

PASSED, ADOPTED, AND APPROVED this 13th day of January 2014.



CITY OF DEMING, NEW MEXICO

A handwritten signature in blue ink that reads "Linda E. Franklin".

Linda E. Franklin, Mayor Pro Tem

A handwritten signature in blue ink that reads "Richard F. McInturff".

Richard F. McInturff, City Clerk

**CITY OF DEMING, NEW MEXICO
ORDINANCE NO. 1244**

AN ORDINANCE AMENDING TITLE 13 OF THE DEMING CITY CODE, NEW MEXICO

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEMING, NEW MEXICO:

1. Title 13, of the Deming City Code is hereby amended by adding thereto the following new chapter, Chapter 7, as follows:

“CHAPTER 7

CITY OF DEMING THREE (3) MILE PLANNING AND PLATTING JURISDICTION

SECTION:

- 13-7-1: Purpose and Applicable Law
- 13-7-2: Platting Jurisdiction, Applicability and Approving Authorities
- 13-7-3: Definitions
- 13-7-4: Procedures
- 13-7-5: Design Standards
- 13-7-6: General Provisions
- 13-7-7: Preliminary and Final Plats
- 13-7-8: Required Improvements
- 13-7-9: Variances
- 13-7-10: Suspension of Provisions of Chapter 7 Where Platting Agreement with County is in Effect
- 13-7-11: Severability Clause

13-7-1: **PURPOSE:**

- A. Purpose: The purposes of this chapter are: to clearly recognize and codify the city’s authority to exercise its planning and platting authority within three (3) miles of its boundary; to ensure development within the planning and platting jurisdiction is compatible with city objectives and standards; to provide adequate open spaces for traffic, recreation, light and air; to manage distribution of population; and, to create conditions favorable to the health, safety and general welfare of the citizens.
- B. Applicable Law: Authorization for the city’s planning and platting authority three miles beyond the city boundary and for the regulations contained in this chapter is given in Sections 3-19-1 through 3-19-8 inclusive, NMSA 1978; and, Sections 3-20-1 through 3-20-16 inclusive, NMSA 1978.

13-7-2: JURISDICTION AND APPROVING ENTITIES:

- A. **Platting Jurisdiction:** The city's planning and platting jurisdiction includes all lands within the city boundary as extended from time to time, and all lands within three (3) miles of the city's boundary as extended from time to time. However, for purposes of chapter 7 of this title, the planning and platting jurisdiction is that area of Luna County lying within three (3) miles of the city boundary as extended from time to time. A map showing the current three (3) mile planning and platting jurisdiction beyond the city boundary shall be available for viewing in the city Planner's office in the City Administration Building during normal business hours.
- B. **Applicability:** The provisions of chapter 7 of this title shall apply to the city's planning and platting jurisdiction three (3) miles beyond the city boundary as extended from time to time.
- C. **Approving Authorities:**
 - 1. The Deming City Council is the planning authority for the city's three (3) mile planning and platting jurisdiction and it is the approval authority for all subdivisions within the city's platting jurisdiction.
 - 2. The city planning and zoning commission shall consider all subdivision plats within the city's three (3) mile planning and platting jurisdiction and make recommendations to the city council.
 - 3. The Luna County Commission is also the approval authority for any subdivision within the city's three (3) mile planning and platting jurisdiction, but not within the city's boundary, and its approval must be obtained in addition to that of the city planning authority, namely, the city council.
 - 4. No plat of any subdivision within the three (3) mile planning and platting jurisdiction of the city may be filed in the office of the county clerk without such plat having been submitted to the city planning authority for approval.

13-7-3: DEFINITIONS:

The definitions set out in Section 13-1-2 of this title shall apply to all applicable subdivisions within the city's three (3) mile planning and platting jurisdiction.

13-7-4: PROCEDURES:

The procedures established in chapter 2 of this title shall apply to all applicable subdivisions within the city's three (3) mile planning and platting jurisdiction.

13-7-5: DESIGN STANDARDS:

The design standards established in chapter 3 of this title shall apply to all applicable subdivisions within the city's three (3) mile planning and platting jurisdiction.

13-7-6: GENERAL PROVISIONS:

The general provisions set out in chapter 4 of this title shall apply to all applicable subdivisions within the city's three (3) mile planning and platting jurisdiction.

13-7-7: PRELIMINARY AND FINAL PLATS:

The regulations regarding preliminary and final plats as set out in chapter 5 of this title shall apply to all applicable subdivisions within the city's three (3) mile planning and platting jurisdiction.

13-7-8: REQUIRED IMPROVEMENTS:

The required improvements set out in chapter 6 of this title shall apply to all applicable subdivisions within the city's three (3) mile planning and platting jurisdiction.

13-7-9: VARIANCES:

For the purposes of chapter 7 of this title, Section 13-4-8 of this title shall not apply to the city three (3) mile planning and platting jurisdiction as defined in chapter 7 of this title. Rather, the following provisions shall apply in its stead.

- A. City Planning and Zoning Commission to make Recommendations: The city planning and zoning commission shall make recommendations to the Deming City Council, the planning authority for purposes of the city's three (3) mile planning and platting jurisdiction, with regard to variances or waivers from the regulations of this title.
- B. Variances:
 - 1. Where the planning and zoning commission finds that hardships may result from strict compliance with the regulations of this title, the planning and zoning commission may recommend to the city council a variance or a waiver from any regulation so that substantial justice may be done and the public interest secured.

2. The planning and zoning commission shall ensure that the recommended varying or waiving of any regulation does not nullify the intent or purposes of any applicable city plan or ordinance; nor shall the varying or waiving of any regulation have any adverse financial impact on the city.
3. In recommending a variance or waiver, the planning and zoning commission shall provide reasons for such variance or waiver.
4. The planning and zoning commission in recommending a variance or a waiver to any regulation contained in this title may recommend the imposition of such conditions as it deems appropriate in the circumstances and does not set a precedent.
5. The city council, the planning authority for the platting jurisdiction, in its sole discretion, may accept and approve the recommended variances or waivers; or modify the recommended variances or waivers; or deny the recommended variances or waivers.
6. The city council, the planning authority for the three (3) mile planning and platting jurisdiction, in its sole discretion, may approve, modify or deny any conditions to the approval of a subdivision as recommended by the city planning and zoning commission.

13-7-10: PROVISIONS OF CHAPTER 7 SUSPENDED WHERE CITY AND COUNTY PLATTING AGREEMENT IN EFFECT:

In the event the city and Luna County enter into an agreement, at any time, regarding the processing of subdivisions within the city's three (3) mile platting jurisdiction or any part thereof, the provisions of this Chapter 7 shall be suspended during the term of said agreement. If such agreement in effect is terminated for any reason, the provisions of Chapter 7 shall continue in full force and effect. The suspension of the provisions of Chapter 7 and the condition for reinstatement of the provisions of Chapter 7 may form part of any platting agreement between the city and Luna County.

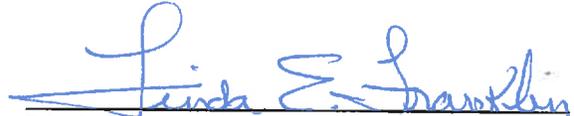
13-7-11: SEVERABILITY CLAUSE:

The provisions of section 1-2-4, "Severability Clause", of the city code shall apply fully to this Chapter 7.

PASSED, ADOPTED, AND APPROVED, this 13th day of January, 2014.



CITY OF DEMING, NEW MEXICO


Linda E. Franklin, Mayor Pro Tem

ATTEST:


Richard F. McInturff, Administrator/Clerk