



Phone (575) 546-8848 · Fax (575) 546-6442
E-MAIL: deming@cityofdeming.org · Website: www.cityofdeming.org
P.O. BOX 706 · DEMING, NEW MEXICO 88031
POPULATION 14,000

CITY COUNCIL MEETING

February 9, 2015

6:00 P.M.

AGENDA

Call to Order/Pledge of Allegiance

1. Consent Agenda
 - A. Minutes –City Council Regular Meeting 01/12/15
 - B. Minutes – Parks Commission Meeting 01/13/15
 - C. Minutes – Planning & Zoning Commission 01/20/15
 - a. Recommendation for a Zone Change for 20 acres at the SE Corner of Tennyson and Florida (*To be presented at a later date*).
 - b. Recommendation for a Subdivision request to Divide Approximately 80 acres of Land into seven (7) tracts on property located on both sides of West Second Street, to the west of Eighth Street, south of Fourth Street and is zoned industrial; with clarification of Tract Eight (8) (*To be presented at a later date*).
 - D. Minutes – Tourism Development Committee 1/22/15
 - a. Approval to accept change of meeting date from Wednesday to Thursday
 - b. Recommendation to have staff contact Wilson Binkley to incorporate advertisement for the Fort Sill Apache Art Exhibition with the current Wilson Binkley advertisement scheme.
 - E. Out-of-State Travel Request for Cpt. Bobby Orosco to attend the FBI-LEEDA Command Leadership Institute in Scottsdale, AZ on March 2-6, 2015.
2. Public Forum
3. Approval/Denial of a Resolution Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Between the New Mexico Finance Authority and the City of Deming
4. Approval/Denial of the Revision of Administrative Regulation DM08-06 Governing Discrimination and Harassment
5. Approval/Denial of the new Administrative Regulation DM15-35 Governing American with Disabilities Act, as Amended (ADAAA)
6. Closed Session to Discuss Limited Personnel Matters and the Purchase, Acquisition, or Disposal of Real Property Pursuant to NMSA 1978, Sections 10-15-1(H)(2) and (8) of the Open Meetings Act
7. Mayor's Appointment to City Council Seat-District 2
8. Administrator's Report
9. Adjourn Meeting

The next regular City Council Meeting is scheduled for March 9, 2015 at 6:00 p.m.

CITY COUNCIL MEETING MINUTES February 9, 2015

Council Present: Benny L. Jasso, Mayor
David L. Sanchez, Councilor

Linda Franklin, Mayor Pro Tem
Dr. Victor Cruz, Councilor

Council Absent: Joe "Butter" Milo, Councilor

Staff Present: Aaron Sera, City Administrator
Jim Massengill, Public Works Director
Wesley Hooper, Community Svcs. Dir.
Jim Foy, City Attorney

Raul Mercado, Fire Chief
Vicki Engle, HR Specialists
Brandon Gigante, Police Chief
Laura Holguin, Treasurer

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

Mayor Jasso called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

1. Consent Agenda

Mr. Sera called attention to item 1. C. Minutes-Planning & Zoning Commission 1/20/15, in which sub items a. and b. are recommendations which will be presented at a later time, and stated that therefore, Council would only be approving the minutes of this meeting. He went on to mention item D. Minutes-Tourism Development Committee 1/22/15. Mr. Sera stated that in sub items a. Approval to accept change of meeting date from Wednesday to Thursday; and b. Recommendation to have staff contact Wilson Binkley to incorporate advertisement for the Fort Sill Apache Art Exhibition with the current Wilson Binkley advertisement scheme. He stated that the art exhibition already has an advertising plan and if it can be fit into the current scheme since they do not have any funds for advertising.

Mr. Sera asked Chief Gigante to comment on item E. Out-of-State Travel Request for Cpt. Bobby Orosco to attend the FBI-LEEDA Command Leadership Institute in Scottsdale, AZ on March 206, 2015. Chief Gigante recalled that he had previously requested Out-of-State Travel for Cpt. Orosco to attend Law Enforcement Executive Training. Unfortunately, once they received the approval, the class was full. He stated that they were fortunate enough to find another class with the same instruction, same instructor, and same company. Chief Gigante stated that this class worked out to their benefit with it being closer to home, in Scottsdale, Arizona. He stated that one of the requirements upon promotion to administrative or executive position with the Police Department is that they attend this type of training. He stated that this specific training is a 3-phased program, in which this is phase 1. Chief Gigante summarized this training by stating that it would cover command and leadership of police departments, applying for and managing budgets, applying for and managing grants, discipline, most common practices, updated case law in regards to employment law pertaining to law enforcement, how to lead change to get buy-in, dos and don'ts of disciplining, corrective action and overall management on an executive level of

administration in a police organization. There were no questions from Council for Chief Gigante.

Mayor Pro Tem Franklin moved to approve the Consent Agenda, as presented. Councilor Sanchez seconded the motion; motion carried unanimously.

2. Public Forum

Mayor Jasso opened the public forum session for comment. The following person's comments were heard:

- Elizabeth Burr, P.O. Box 94
- Edward Khanbabian, 1721 E. Pine St.

3. Approval/Denial of a Resolution Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Between the New Mexico Finance Authority and the City of Deming

Mr. Massengill presented the resolution for the NMFA project for a water well master plan. He stated that the two-part funding came from the Bureau of Reclamation and NMFA, in which NMFA's part is \$37,500.00 and the City's part is \$12,500. He stated that the document is finished and now the resolution would need to be approved in order to get the grant agreement and get reimbursed for money already spent. He went on to cite some of the requirements of the grant.

Councilor Cruz moved to approve a Resolution Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and between the New Mexico Finance Authority and the City of Deming. Councilor Sanchez seconded the motion; motion carried unanimously.

4. Approval/Denial of the Revision of Administrative Regulation DM08-06 Governing Discrimination and Harassment

Ms. Engle presented this item to Mayor and Council. She stated that Administrative Regulation DM08-06 regarding Governing Discrimination and Harassment originally addressed only sexual harassment. She went on to say that this revision expands the regulation to include all forms of discrimination and harassment as described in State and Federal law. She referred Council to look at Section 2, which details this revision. She stated that the revision has been coordinated through Attorney Foy and the City Administrator, and finalized into the document they have in their possession. Ms. Engle stated that each Administrative Regulation is distributed City wide, including to each employee. She went on to explain that the revised policy provides definitions, procedures and a process for reporting and investigation, and a complaint form that may be used by an employee.

Ms. Engle respectfully requested Council's approval for the revised Administrative Regulation DM08-06, Discrimination and Harassment.

Councilor Sanchez asked Ms. Engle if each employee will receive the complaint form or if it will be available for employees. She answered that both, the employee will receive a copy with the Regulation and they will be available at the City office.

Mayor Pro Tem Franklin asked if all complaints go through Ms. Engle as Human Resources. Ms. Engle answer that yes, generally they do. A brief discussion was entertained regarding the reporting of such an incident between Ms. Engle, Councilor Sanchez and Mayor Pro Tem Franklin. Councilor Sanchez asked if there was a committee to handle such an incident or if it is handed over to someone outside the City to handle the complaint. Ms. Engle stated that it would be up to the Administrator to determine if an outside investigator would handle the complaint.

With no other questions, Mayor Jasso entertained a motion from the Council.

Mayor Pro Tem Franklin moved to approved the Revision of Administrative Regulation DM08-06 Governing Discrimination and Harassment, as presented. Councilor Sanchez seconded the motion; motion carried unanimously.

5. Approval/Denial of the new Administrative Regulation DM15-35 Governing American with Disabilities Act, as Amended (ADAAA)

Ms. Engle stated this is an entirely new regulation for the City of Deming. She stated that it established policy that commits the City to fair and equal treatment and employment of qualified persons with disabilities and established a reasonable accommodation process. She stated that the policy provides definition, procedures for reporting complaints, investigation, as well as how to request reasonable accommodation and how the process will work.

Ms. Engle respectfully requested Council's approval of this new Administrative Regulation, DM15-35, Americans with Disabilities Act, as Amended (ADAAA).

Councilor Sanchez asked if all the City Offices are in compliance with the Americans with Disabilities Act. Mr. Sera stated that the building are not all compliant, but no additional construction has to be done, unless the City begins to remodel buildings, then it would be necessary to comply with the ADA. Ms. Engle and Councilor Sanchez briefly discussed the accommodation process.

Councilor Sanchez moved to approve the New Administrative Regulation DM15-35 Governing Americans with Disabilities Act (ADAAA), as Amended, as presented. Mayor Pro Tem Franklin seconded the motion; motion carried unanimously.

6. Closed Session to Discuss Limited Personnel Matters and the Purchase, Acquisition, or Disposal of Real Property Pursuant to NMSA 1978, Sections 10-15-1(H)(2) and (8) of the Open Meetings Act

Mayor Jasso entertained a motion to go into closed session.

Councilor Sanchez moved to go into closed session. Mayor Pro Tem Franklin seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Cruz	Aye
Councilor Sanchez	Aye
Mayor Pro Tem Franklin	Aye

Mayor Jasso entertained a motion to go back into open session.

Councilor Sanchez moved to go back into open session. Mayor Pro Tem Franklin seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Mayor Pro Tem Franklin	Aye
Councilor Cruz	Aye
Councilor Sanchez	Aye

Mayor Jasso stated for the record that no decisions or motions were made during the closed session, and that only the items mentioned in the motion to go into closed session were discussed. He entertained a motion from Council.

Mayor Pro Tem Franklin moved to approve and give staff the authority to negotiate a purchase price and the size for a small piece of property located on Arrowhead Road. Councilor Sanchez seconded the motion; motion carried unanimously.

Councilor Sanchez moved to approve the sale of property, lots 1, 2, 5, 6, 11, & 12 on Slate Street to Southwest Regional Housing Community Development Corporation; at \$5,000.00 per lot to include closing costs, to be paid at closing. Mayor Pro Tem Franklin seconded the motion; motion carried unanimously.

7. Mayor's Appointment to City Council Seat-District 2

Mayor Jasso thanked all who submitted their letters of interest. He announced his appointment of Roxana Rincon to City Council seat-District 2.

Councilor Sanchez moved to approve the Mayor's appointment of Roxana Rincon as District 2 City Councilor. Councilor Cruz seconded the motion; motion carried unanimously.

Mayor Jasso added that Ms. Rincon's appointment will become affective when Mayor Pro Tem Franklin leaves, which will be February 12, 2015.

Councilor Sanchez amended his motion to include that Roxana Rincon's appointment will start as of February 12, 2015. Councilor Cruz seconded the amendment; motion carried unanimously.

8. Administrator's Report

Mr. Sera mentioned the following items as part of his report:

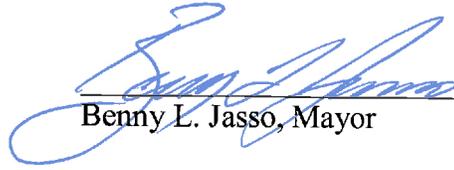
- There was a lot of research done regarding Hold Harmless and researching options. He stated that he had a conversation with the Governor regarding the Hold Harmless issue. He went on to say that there are hopes it may actually get fixed.
- He went on to say that the City has been working with NMSU on the Business Incubator Program. He stated that the details have yet to be ironed out and the City is waiting to hear if we have received the assistance from the Rio Grande Center.
- Land Transfer between the City of Deming and Deming Public Schools is still in the works as the survey is completed. He stated that the City is waiting for the transfer document to be executed and sent to the Department of Finance Authority (DFA) for approval. He stated that only the City would require approval from DFA.
- Mr. Sera stated that there was extensive monitoring of the gross receipts tax and that it is \$125,000 lower from last year. He stated that the next distribution the City will receive will be from December 2014, and hopes to see an increase. He stated that the budget looks good.
- Mr. Sera asked Mr. Massengill to brief everyone about the water meter billing and software integration. Mr. Massengill stated that the transition has been the "cart before the horse". He stated that the meters are installed, but not all the software has been installed. Mr. Massengill stated that the problem is that the new meters require manual reading at this time, due to the software not being installed. He stated that another issue is that the utilities department is having the transfer the hand-held readings from units to gallons. He stated that it's going to be around 3-4 months before this is corrected. He stated that the new meters are reading more accurately, and therefore, customers are going to see a higher water bill. A brief discussion was entertained between Councilor Sanchez, Mr. Massengill and Mr. Hooper regarding the higher water bills. Mr. Massengill encouraged Council to let him know if their constituents start calling them about higher water bills. A brief discussion was entertained between staff and Council regarding establishing a water conservation program by the City.

9. Adjourn Meeting

With no further business to discuss, a motion to adjourn was made by Mayor Pro Tem Franklin. Councilor Sanchez seconded the motion; motion carried unanimously. Meeting adjourned at 7:18 p.m.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Aaron Sera, Clerk

CITY OF DEMING
RESOLUTION NO. 15-12

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOCAL GOVERNMENT PLANNING GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), AND THE CITY OF DEMING (THE "GRANTEE"), IN THE AMOUNT OF THIRTY SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$37,500) EVIDENCING AN OBLIGATION OF THE GRANTEE TO UTILIZE THE GRANT AMOUNT AND THE LOCAL MATCH AMOUNT] SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF THE WATER MASTER PLAN, AND SOLELY IN THE MANNER DESCRIBED IN THE GRANT AGREEMENT; CERTIFYING THAT THE GRANT AMOUNT, TOGETHER WITH THE LOCAL MATCH AMOUNT AND OTHER FUNDS AVAILABLE TO THE GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in Section 1 of the Resolution unless the context requires otherwise.

WHEREAS, the Grantee is a political subdivision of the State, being a legally and regularly created, established, organized and existing incorporated municipality under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended, under the laws of the State of New Mexico; and

WHEREAS, the Grantee is qualified to receive the Planning Grant pursuant to the Finance Authority's Rules Governing the Local Government Planning Fund and NMSA 1978, § 6-21-6.4, as amended; and

WHEREAS, the Governing Body hereby determines that the Project may be financed with amounts granted pursuant to the Grant Agreement, that the Grant Amount, together with the **Local Match** and other moneys available to the Grantee, is sufficient to complete the Project, and that it is in the best interest of the Grantee and the public it serves that the Grant Agreement be executed and delivered and that the funding of the Project take place by executing and delivering the Grant Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully enter into the Grant Agreement, accept the Grant Amount and be bound to the obligations and by the restrictions thereunder; and

WHEREAS, the Grantee acknowledges and understands that the Planning Grant must be expended and a Planning Document must be completed within one (1) year from the Closing Date, or the Grantee will forfeit the ability to draw Grant funds from the Local Government Planning Fund; and

WHEREAS, the Grant Agreement shall not constitute a general obligation of the Grantee or a debt of pledge of the faith and credit of the Grantee, the Finance Authority or the State; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the City Clerk this Resolution and the form of the Grant Agreement which is incorporated by reference and made a part hereof; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Grant Amount for the purposes described and according to the restrictions set forth in the Grant Agreement; and (ii) the authorization, execution and delivery of the Grant Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

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

Section 1. Definitions. A Definitions. All terms used herein have the same definition as contained in the draft Grant Agreement, dated February 20, 2015.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Grantee and officers of the Grantee, directed toward the Project and the execution and delivery of the Grant Agreement, shall be and the same hereby is ratified, approved and confirmed.

Section 3. Authorization of the Project and the Grant Agreement. The Project and the method of funding the Project through execution and delivery of the Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Grantee and the public it serves.

Section 4. Findings. The Governing Body on behalf of the Grantee hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is needed to update the 1998 water master plan, and address growth and the municipal well system.

B. The costs of the Project are beyond the local control and resources of the Grantee.

C. The Project and the execution and delivery of the Grant Agreement pursuant to the Act to provide funds for the financing of the Project are in the interest of the public health, safety and welfare of the public served by the Grantee.

D. The Grantee will perform (or cause to be performed) the Project with the proceeds of the Planning Grant, and will utilize the Project for the purposes set forth in the Grant Agreement.

E. The Grantee will forfeit the Planning Grant if the Grantee fails to utilize the Grant Amount within one (1) year of the Closing Date.

F. The Local Match is legally available to be applied to the Project.]

Section 5. Grant Agreement—Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of a majority of a quorum of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Grantee and performing the Project, it is hereby declared necessary that the Grantee execute and deliver the Grant Agreement evidencing the Grantee's acceptance of the Grant Amount of Thirty Seven Thousand Five Hundred Dollars (\$37,500) and the availability of the Local Match in the amount of Twelve Thousand Five Hundred Dollars (\$12,500) to be utilized solely for the Project and solely in the manner and according to the restrictions set forth in the Grant Agreement, the execution and delivery of which are hereby authorized. The Grantee shall use the proceeds of the Grant and the Local Match, to finance the performance of the Project. The Project will be owned by the Grantee and will be utilized by the Grantee as set forth in the Grant Agreement.

B. Detail. The Grant Agreement shall be in substantially the form of the Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of Thirty Seven Thousand Five Hundred Dollars (\$37,500).

Section 6. Approval of Grant Agreement. The form of the Grant Agreement as presented at the meeting of the Governing Body at which this Resolution was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Grant Agreement with such changes, insertions, and deletions as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Grantee on the Grant Agreement and attest the same. The execution of the Grant Agreement shall be conclusive evidence of such approval.

Section 7. Disposition of Proceeds; Completion of Acquisition of the Project.

A. Grant Account. The Grantee hereby consents to creation of the Grant Account by the Finance Authority and approves of the deposit of the Grant Amount into the Grant Account. Until the Completion Date, the money in the Grant Account shall be used and paid out solely for the purpose of the Project in compliance with applicable law and the provisions of the Grant Agreement.

B. Completion of Acquisition of the Project. The Grantee shall proceed to acquire and complete the Project with all due diligence. Upon the Completion Date, the Grantee shall execute a certificate substantially in the form attached as Exhibit "C" to the Grant Agreement stating that acquisition of and payment for the Project have been completed. As soon as practicable and, in any event, not more than sixty (60) days after the Completion Date, any balance remaining in the Grant Account shall be transferred and returned to the Local Government Planning Grant Fund.

C. Finance Authority Not Responsible. The Finance Authority shall in no manner be responsible for the application or disposal by the Grantee or by the officers of the Grantee of the funds derived from the Grant Agreement or of any other funds held by or made available to the Grantee's in connection with use of the Project.

Section 8. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Grant Agreement, and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Grant Agreement, including, but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Grant Agreement.

Section 9. Amendment of Resolution. This Resolution after its adoption may be amended without receipt by the Grantee of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 10. Resolution Irrepealable. After the Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations of the Grantee under the Grant Agreement shall be fully discharged, as herein provided.

Section 11. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 12. Repealer Clause. All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 13. Effective Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Grantee kept for that purpose, authenticated by the signatures of the Mayor and City Clerk of the Grantee, and this Resolution shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of

this Resolution, this Resolution shall be effective upon adoption of this Resolution by the Governing Body.

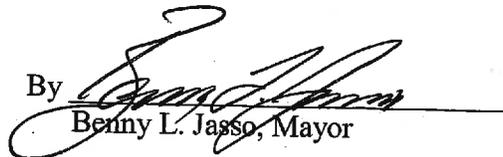
[Remainder of page intentionally left blank.]

Section 14. Execution of Agreements. The City of Deming through its Governing Body agrees to authorize and execute all such agreements with the Finance Authority as are necessary to consummate the Grant contemplated herein and consistent with the terms and conditions attached hereto.

PASSED, APPROVED AND ADOPTED THIS 9th DAY OF FEBRUARY, 2015.



CITY OF DEMING

By 
Benny L. Jasso, Mayor

ATTEST:

By 
Aaron Sera, City Clerk

[Remainder of page intentionally left blank.]