



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 *Special Meeting*

April 22, 2011

9:00 A.M.

AGENDA

Call to Order / Pledge of Allegiance
Open Special Session

1. Public Hearing: To Consider an Ordinance Amending Title 9-3, 5, and 6 of the Municipal Code pertaining to Water Rates, Fees and Charges, Payment of Bills, and the Addition of a Section on Seasonal Accounts
2. Reclassification of Job Description for Assistant Librarian
3. Presentation of Utility Rate Analysis – No Action
4. Public Hearing: To Consider an Ordinance Amending Title 9-5-8D of the Municipal Code pertaining to Sewer Rates
5. Closed Session: To Discuss personnel matters, litigation matters, and real estate, pursuant to NMSA 1978 Sections 10-15-1 (H) (2) (7) and (8) of the Open Meetings Act
6. Adjourn Meeting

The Next Regularly scheduled workshop/meeting is May 9th, 2011 commencing at 4:00 p.m. and 6:00 p.m.

28

CITY COUNCIL SPECIAL MEETING MINUTES

April 22, 2011

Council Present: Andres Z. Silva, Mayor William Shattuck, Mayor Pro Tem
Joe "Butter" Milo, Councilor David Sanchez, Councilor Linda Enis, Councilor

Absent:

Staff Present: Richard F. McInturff, Administrator Aaron Sera, Community Services Director
Mary Jo Valdez, City Clerk Edgar Davalos, Fire Chief
Wesley Hooper, Project Coordinator Richard Kocab, Assistant Treasurer
Lloyd Valentine, Sr. Budget Analyst Lawrence Brookey, Public Works Director

Mayor Silva led the pledge of allegiance and called the meeting to order at 9:00 a.m.

Mayor Silva stated that Councilor Sanchez was going to be a little late and asked for a motion to rearrange the agenda to switch item one and two and renumber the rest of the agenda accordingly.

Councilor Enis motioned to rearrange items one and two on the agenda and to renumber the agenda, second by Mayor Pro Tem Shattuck; carried unanimously.

1. **Reclassification of Job Description for Assistant Librarian**

Mr. McInturff stated that during the budget process, staff noticed an inequity concerning the salary of the head librarian; adding that the position was making less than the co-workers in the department. Mr. McInturff stated that appropriate changes have been made to the job description with the addition of experience, and certification. Management is asking to change the position to a Range 16 to be effective at the start of the next pay period. Mayor Silva asked if the position would start at a Step 1; and asked if Ms. Wilds would be taking classes to obtain certification. Mr. Sera stated that she is already certified, however, she does not have a masters degree in library sciences. She is researching classes that she may be able to take towards her masters degree. Mayor Silva asked if the lack of having a head librarian would hinder any funding. Mr. McInturff stated that it has no impact on funding. Councilor Enis asked if management is allowing her the opportunity to attend NMML training. Mr. McInturff stated that she is a member of NMML. Mr. McInturff stated that the position change is to a Range 16, Step 1.

Councilor Enis motioned to approve the reclassification of the Job Description for Assistant Librarian to a Range 16 to be effective tomorrow, second by Councilor Milo; carried unanimously.

2. **Public Hearing: To Consider an Ordinance Amending Title 9-3, 5, and 6 of the Municipal Code Pertaining to Water Rates, Fees, and Charges, Payment of Bills, and the Addition of a Section on Seasonal Accounts**

Mayor Silva conducted a public hearing to consider an ordinance amending Title 9-3, 5, and 6 of the Municipal Code pertaining to water rates, fees, and charges, payment of bills, and the addition of a section on seasonal accounts.

Mr. McInturff stated that this ordinance is being amended as housekeeping items. Mr. McInturff addressed section 3-1-A-4. Time Periods, stating that the dates reflected will not always be the exact dates, further explaining that this is the reason the ordinance refers to cycle 1 and cycle 2.

Mr. McInturff stated that language in sections 5-8F and 6-5D are being substituted. Mr. McInturff stated that there is an addition of 9-6-F which deals with property owner disclaimers. Mr. McInturff stated that this section holds the tenant liable for the payment instead of the property owner. Mr. McInturff stated that the deposit of \$250 for a residence which has an owner disclaimer will help the City collect a bill that is delinquent which amounts up to approximately 2 months of service before cutoff.

Mr. McInturff stated that the ordinance lists the process for the shut off of delinquent accounts; tampering or theft of utility services; and seasonal accounts in the event that an owner is on vacation for a period of time in which they want to have their service active but turned billing off for this period.

Mayor Silva asked for clarification on the dates in 9-3-1A-4. Mr. McInturff stated that dates pertain to the seasonal summer rates which is meant to encourage water conservation.

Mr. Valentine clarified that the dates listed refers to a table in the ordinance which pertains to the reading dates of utility meters.

Councilor Milo suggested informing the public about the rates and time frames. Councilor Enis stated that reminding the public is a good idea. Mr. Brookey stated that flyers were sent out with the last two billing cycles.

Mayor Silva asked if customers received a portion of their deposit back after about a year of good service. Mr. Valentine stated that previously, after 13 months of service without late fees, the customer would obtain a partial deposit; adding that the ordinance now reads that the customer may ask for a partial refund if they have no late fees for 13 months.

Councilor Milo asked for an explanation on the procedures for delinquent accounts. Mr. Valentine stated that if a bill is unpaid after a month, a disconnect notice is sent and the customer is given 14 days to pay the past due amount; adding that if an account is shut off, full payment in addition to fees must be paid prior to turning the services back on.

Mayor Silva opened the public hearing for public comments. Mayor Silva closed public comments and asked Council if there was a need for discussion or if they were prepared to make a motion.

Mayor Pro Tem Shattuck asked if staff was going to notify landlords if their tenants were behind on their bills if they don't have a disclaimer filed; and asked if a stand-by account is turned off by staff on accident, is the landlord liable to pay the charge to be turned back on. Mr. McInturff stated that if staff makes this error there would be no charge to turn services back on under these circumstances. Mayor Pro Tem Shattuck asked if there was a way to send a duplicate bill to the landlord when the tenant is behind on their bills. Mr. McInturff stated that there is a way to print duplicate bills for landlords. Mayor Pro Tem Shattuck stated that he isn't interested in receiving their monthly bill, but would like notification when the tenant is behind.

Mayor Pro Tem Shattuck motioned to approve the ordinance amending Title 9-3, 5, and 6 of the Municipal Code Pertaining to Water Rates, Fees, and Charges, Payment of Bills, and the Addition of a Section on Seasonal Accounts, second by Councilor Enis; carried unanimously.

3. Presentation of Utility Rate Analysis

Mr. McInturff stated that utility rate analyses are performed on an annual basis. Mr. McInturff reviewed the estimated operating costs and expenditures for the gas, solid waste, water, and waste water funds. Mr. McInturff stated that the gas fund operating expense is \$1,130,201; gas line replacements will cost \$100,000; the electronic meter replacement project will cost \$150,000. Mr. McInturff stated that the purchase of electronic reading devices would allow for more efficient billing. Mr. McInturff explained that the analysis is completed to determine what expenses need to be covered by our rates. Mr. McInturff stated that management does not recommend adjusting the gas rates at this time.

Councilor Sanchez asked if the \$150,000 would be obtained within one year. Mr. McInturff stated that the total amount would be obtained over a four year period. Mr. Brookey stated that there are 6,000 accounts and that the project would take about four years to complete; adding that grants have been applied for to assist in completing the project. Councilor Enis clarified that \$150,000 is needed each year for the next four years. Mr. McInturff confirmed.

ORDINANCE NO. 1210

AN ORDINANCE AMENDING TITLE 9 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 9, Chapter 3 is hereby amended by the addition of section 9-3-1A4:

9-3-1: RATES, FEES AND CHARGES

A. Water Rates, Fees And Charges:

4. Time Periods: The May 15th and October 15th dates referenced in the tables in section 9-3-1A2 refer to billing cycle dates.

2. Title 9, Chapter 5 is hereby amended by the deletion of section 9-5-8F.

3. Title 9, Chapter 6 is hereby amended by the deletion of section 9-6-5D and is also amended by the addition of the following:

9-6-5: PAYMENT OF BILLS; DELINQUENT ACCOUNTS

D. Lien For Nonpayment: With the exception of Subsection 9-6-5F of this section, in addition to any other remedy provided herein for the enforcement and collection of any utility service rate, charge or account, all rates provided for in this chapter shall be charged against the property on which it is furnished, and against the owner thereof, and shall be a lien against the premises to which any utility service may be applied, and a charge against the owner thereof and the occupant thereof using the utility service. If for any cause, any sums owing therefore become delinquent, the utility service shall be shut off, and in no case shall it be turned on to the same property until all such delinquencies shall have been paid in full including accumulation of all late fees, penalties, and interest.

4. Title 9, Chapter 6 is hereby amended by the deletion of section 9-6-5E and is also amended by the addition of the following:

9-6-5: PAYMENT OF BILLS; DELINQUENT ACCOUNTS

E. Responsibility For Payment: The property owner and occupant shall be jointly and severally liable for debt and money due on open account to the city in an action waged by the city in any court of competent jurisdiction for the amount of all such rates as may be due and unpaid, together with all penalties provided herein and costs, except as delineated in 9-6-5F. No change of ownership or occupancy shall affect the application of this section.

- 5. Title 9, Chapter 6 is hereby amended by the addition of section 9-6-5F:

9-6-5: PAYMENT OF BILLS; DELINQUENT ACCOUNTS

F. Property Owner Disclaimer: When a property owner files a disclaimer, written request, in accordance with NMSA 3-23-6 Subsection C, to relieve themselves from the responsibility delineated in Subsection 9-6-5D of any utility charges that their renters may incur. The disclaimer must include the property owner's full name and location of rental properties that will be disclaimed. Proof of ownership of the location proposed for disclaimer shall be provided to the city in conjunction with the filing of the disclaimer. The disclaimer does not relieve the property owner of any debt incurred prior to submitting the disclaimer to the City of Deming. Renters, of properties that have disclaimers filed, will be required to pay a minimum deposit of \$250 prior to having services turned on to such premises.

- 6. Title 9, Chapter 6 is hereby amended by the addition of section 9-6-5G:

9-6-5: PAYMENT OF BILLS; DELINQUENT ACCOUNTS

G. Shut Off Fees- In the event utility service is shut off pursuant to this ordinance and a lock and/or restrictor plate is installed lawfully in or upon the disabled and/or shut off utility meter by an authorized City of Deming employee, the City of Deming shall collect the following fees from the owner and/or occupant who is responsible for payment of said utility bill to the City of Deming. Once said fees are paid, the City of Deming shall remove said lock or restrictor plate. The fees are codified as follows:

- 1. a twenty-five dollar (\$25.00) lock fee;
- 2. If applicable, a fifty dollar (\$50.00) unauthorized removal or tampering fee if said lock or restrictor plate is removed by any person other than an authorized City of Deming employee; and
- 3. a one-hundred dollar (\$100.00) reinstallation fee per meter in order to re-install each meter after it is removed.

- 7. Title 9, Chapter 6 is hereby amended by the addition of section 9-6-5H:

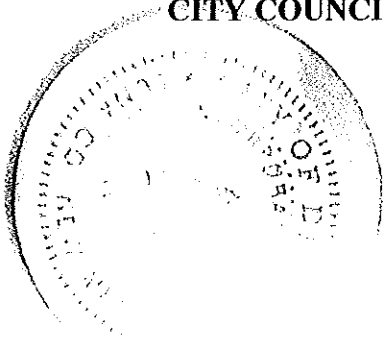
9-6-5: PAYMENT OF BILLS; DELINQUENT ACCOUNTS

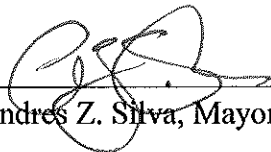
H. Tampering or Theft of a Utility Service - It shall be unlawful for any owner and/or occupant of any real property whose utility meter has been shut off by the application of a lock and/or restrictor plate based upon delinquency in the payment of utility services to remove or cause to have removed the lock and/or restrictor plate from the utility meter for the purpose of any of the following:

service charges. There is a twenty-five dollar (\$25.00) convenience fee for this service. Turning services off temporarily does not relieve the property owner from any usage that may occur during the time it is turned-off. The account holder is responsible for ensuring all usage charges are paid when they become due. Seasonal accounts that have been turned-off for longer than one-year may be turned off and the deposit refunded to the account holder.

PASSED, ADOPTED, AND APPROVED, this 22nd day of April, 2011.

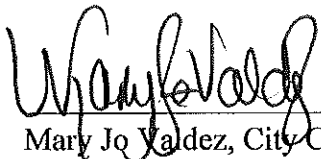
CITY COUNCIL, CITY OF DEMING, NEW MEXICO





Andres Z. Silva, Mayor

ATTEST:



Mary Jo Valdez, City Clerk

ORDINANCE NO. 1211

AN ORDINANCE AMENDING TITLE 9 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 9, Chapter 5 is hereby amended by the deletion of section 9-5-8D and is also amended by the addition of the following:

9-5-8: SEWER RATES, FORMULA¹:

D. Current Rates:

1. Rates:

	Rates: First Year (Effective June 1, 2011, reflected beginning on July's Billing Cycle 1)			Rates: First Year (Effective June 1, 2012, reflected beginning on July's Billing Cycle 1)			Rates: First Year (Effective June 1, 2013, reflected beginning on July's Billing Cycle 1)		
	Base Rate	Incremental Rate Per 1000 gallons	Incremental Rate Per 100 Cubic Feet	Base Rate	Incremental Rate Per 1000 gallons	Incremental Rate Per 100 Cubic Feet	Base Rate	Incremental Rate Per 1000 gallons	Incremental Rate Per 100 Cubic Feet
	a. Residential	\$ 8.00	\$ 0.540	\$ 0.403	\$ 9.00	\$ 0.620	\$ 0.459	10	\$ 0.669
b. Commercial	10.00	0.595	0.444	11.00	0.677	0.505	12	0.736	0.549
c. Lift Station	---	0.75	0.561	---	0.84	0.634	---	0.928	0.694

d. Sewer main extension greater than 5 feet in depth to be installed at option of the city and charged at actual city cost for installation and material or the actual contract cost plus administration to the city. (Ord. 1123, 10-10-2005)

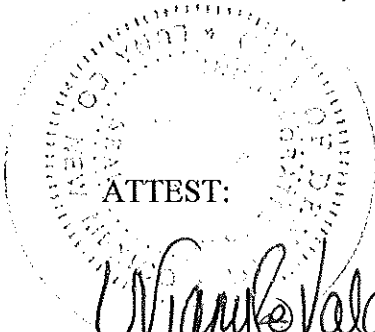
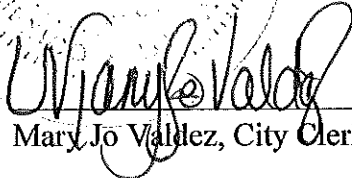
2. Rate Review: Not less frequently than once every twelve (12) months, the established sewer service rates provided for hereby shall be reviewed and amended if necessary to meet the determined need to recover sufficient revenues to provide for operation, maintenance and replacement costs.

PASSED, ADOPTED, AND APPROVED, this 22nd day of April, 2011.

CITY COUNCIL, CITY OF DEMING, NEW MEXICO



 Andres Z. Silva, Mayor


 ATTEST:


 Mary Jo Valdez, City Clerk

Mr. McInturff explained the comparison analysis of rates to cities which are similar in size to Deming and stated that Deming charges the lowest in the area.

Mr. McInturff stated that the solid waste fund operating expense is \$1,807,652; capital asset replacement costs are \$224,300; the expense to replace the liner for the next cell will cost \$250,000. Mr. McInturff explained the comparison analysis of rates to cities which are similar in size to Deming and stated that Deming is considered to be charging in midrange section as compared to the surrounding areas. Mayor Silva mentioned that Bayard, Mesilla, and Hatch are picked up by private entities; adding that there is also a recycling fee in addition to the charges of these cities. Mr. McInturff stated that management does not recommend adjusting the charges in solid waste at this time.

McInturff stated that \$1,949,652 in revenues is needed from water services to cover expenses. However, management did not recommend an increase at this time since there is one more rate increase that is due on the water. Mr. McInturff explained the comparison analysis of rates to cities which are similar in size to Deming and stated that Deming charges are lower than the northern part of the state which may be due to the cost of water rights in those areas.

Mr. McInturff stated that the current rate schedule for the wastewater fund is \$6.00 plus \$.50 per 1,000 gallons for residential use, and \$8.00 plus \$.55 per 1,000 gallons for commercial use. Mr. McInturff explained that 91.01% of residential users contribute to 59.59% of the waste, and 8.99% of commercial users contribute to 40.41% of waste. Mr. McInturff stated that the estimated revenues from wastewater is \$880,560, a difference of about \$7,000 from last year. Mr. McInturff stated that the actual operating cost is \$788,678; capital asset replacement is \$62,079; sewer line replacement and maintenance is \$100,000; and liners will cost \$213,000. Mr. McInturff stated that if the liners are not replaced soon there will be compliance issues with the discharge permit. Mr. McInturff stated that the protection of ground water is a high priority for public safety issues as well as to keep the City's waste water permit. Mr. McInturff stated that the total revenue needed to cover the expenses is \$939,629 which is a 43.14% increase in charges. Mr. McInturff stated that option 1 is to implement the rate increase all at once from \$6.00 to \$10.00; and option 2 is to implement the increase incrementally over a three year period with a \$2.00 increase in the first year and a \$1.00 increase for the subsequent two years. Mr. McInturff stated that the first year's increase would cover the operating expenses and the debt service of the liners; adding that the increase in years two and three would cover equipment and capital asset replacement costs. Mr. McInturff stated that management would recommend approval of option 2. Councilor Sanchez asked who would perform the liner replacement. Mr. McInturff stated that the project would be bid out. Mr. McInturff stated that the City would still be relatively lower than most cities in New Mexico after the third year's increase. Mayor Silva asked if the lifespan of the liner is over 30 years. Mr. Brookey confirmed. Mr. McInturff stated that the current liners have exceeded their lifecycle. Mayor Silva asked if the City will include in the increased fee a cushion for the future placement of the liners. Mr. McInturff stated that cash for new liners will not be accumulated within the 30 years; however, revenues are already imbedded to service future new debt.

Mr. Robinson, Deming Headlight, addressed Council asking how long it would take to get the six liners replaced with both options. Mayor Silva stated that option 1 would replace three liners right away. Mr. McInturff stated that there is no choice at this point; adding that the liners have got to be completed within the next year which will cost a little over \$3 million. Mayor Silva thanked staff for preparing the analysis.

4. Public Hearing: To Consider an Ordinance Amending Title 9-5-8D of the Municipal Code pertaining to Sewer Rates

Mayor Silva conducted a public hearing to consider an ordinance amending title 9-5-8d of the municipal code pertaining to sewer rates.

Mr. McInturff stated that the proposed ordinance follows the recommendation of management on option 2 as explained during the last agenda item.

Mayor Silva opened the public hearing for public comments.

Mr. Robinson addressed Council asking if staff had a figure on the average amount of wastewater generated use for residential and commercial properties. Mr. McInturff stated that there is approximately 1

million gallons per day for the city.

Mayor Silva closed public comments.

Councilor Enis motioned to approve the Ordinance Amending Title 9-5-8D of the Municipal Code pertaining to Sewer Rates, second by Mayor Pro Tem Shattuck; carried unanimously.

5. Closed Session: To Discuss personnel matters, litigation matters, and real estate, pursuant to NMSA 1978 Sections 10-15-1 (H) (2) (7) and (8) of the Open Meetings Act

Mayor Silva asked for a motion to go into closed session to discuss personnel matters, litigation matters, and real estate, pursuant to NMSA 1978 Sections 10-15-1 (H) (2) (7) and (8) of the Open Meetings Act

Councilor Milo motioned to go into closed session, second by Councilor Sanchez;

ROLL CALL/VOTE:

Councilor Enis	Aye
Councilor Milo	Aye
Mayor Pro Tem Shattuck	Aye
Councilor Sanchez	Aye

Motion carried.

6. Open Session:

Mayor Silva asked for a motion to go into open session.

Councilor Milo motioned to go into open session, second by Mayor Pro Tem Shattuck;

ROLL CALL/VOTE:

Councilor Enis	Aye
Councilor Milo	Aye
Mayor Pro Tem Shattuck	Aye

Motion carried.

Mayor Silva stated for the record that only those items pertaining to NMSA 1978 Sections 10-15-1 (H) (2) (7) and (8) of the Open Meetings Act were discussed.

Mayor Silva stated that Councilor Sanchez left the meeting during closed session.

Councilor Enis motioned to authorize Jim Foy to negotiate with Jim Reedy and his attorney to settle on Country Club Estates situation involving the streetlights not to exceed the amount of the outstanding bill, second by Councilor Milo; carried unanimously.

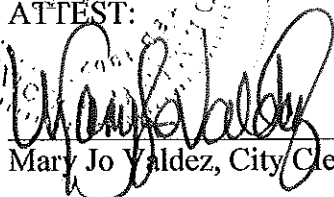
7. Adjourn Meeting

With no further business to conduct, Mayor Pro Tem Shattuck motioned to adjourn the meeting at 12:16 p.m., second by Councilor Milo; carried unanimously.

The next regularly scheduled workshop/meeting is May 9th, 2011 commencing at 4:00 p.m. & 6:00 p.m.

CITY OF DEMING, NEW MEXICO

ATTEST:



Mary Jo Valdez, City Clerk



Linda L. Enis, Councilor