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

CITY COUNCIL MEETING

October 14, 2013

4:00 P.M. CITY COUNCIL WORKSHOP

6:00 P.M. CITY COUNCIL MEETING

Amended

AGENDA

Call to Order/Pledge of Allegiance

1. Consent Agenda
 - A. Minutes - City Council Workshop and Regular Meeting 9/9/13
 - B. Minutes - Planning and Zoning Commission Meeting 9/16/13
(Items below are not approved in Consent Agenda)
 - a. Recommendation for approval of Ordinance Amending Title 12, Chapter 7-Additional Height, Area and Use Regulations, regarding fence heights
 - b. Recommendation to table Title 12, Chapter 16
 - C. Minutes - Tourism Development Committee *(no meeting scheduled)*
 - D. Minutes - Airport Commission Meeting *(no meeting scheduled)*
 - E. Minutes - Marshall Memorial Library Board Meeting *(no meeting scheduled)*
 - F. Minutes - Parks Commission Meeting 9/17/13 *(no quorum-meeting cancelled)*
 - G. Out-Of State Travel Request for Vicki Engle to travel to Scottsdale, Arizona on April 27-May 1, 2014 to attend the 2014 National Public Employers Labor Relations Annual (NPELRA) Training Conference and Workshops
2. Public Forum
3. Ratification of Resolution to Approve a Budget Adjustment for FY14
4. Ratification of Proclamation Declaring Pro Bono Day 2013
5. Approval of the Rural Recycling Resources (R3) Marketing Cooperative Membership and Materials Marketing Agreement
6. Approval of Amendment to Resolution No. 05-72 Pertaining to Rules of Procedure and Ordinances
7. Public Hearing to Consider the Adoption of an Ordinance to grant a Gas Franchise Agreement
8. Public Hearing to Consider the Approval of a Restaurant Liquor License for Akhalpurkh Truckstop, LLC.
9. Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for A Car Dealership at 206 S. Granite Street.
10. Bids:
 - a. RFP 14-05 Wastewater General Engineering (State)
 - b. RFP 14-06 Wastewater General Engineering (Federal)

11. Adjourn Meeting

A Special City Council Meeting is scheduled for 9:00 a.m. on November 4, 2013.

The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., November 12, 2013.

CITY COUNCIL WORKSHOP MINUTES October 14, 2013

Council Present: Andres Z. Silva, Mayor

Linda Franklin, Mayor Pro Tem

Council Absent: David Sanchez, Councilor
William Shattuck, Councilor

Joe "Butter Milo, Councilor

Staff Present: Richard F. McInturff, City Administrator
Aaron Sera, Assistant City Administrator
Wesley Hooper, Community Svcs. Dir.
Jim Massengill, Public Works Director

Edgar Davalos, Fire Chief
Gina Gentile, City Planner II
Bobby Orosco, Police Dept. Captain
Patricia Rodriguez, Receptionist

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

Mayor, Council and staff members of the City of Deming, New Mexico held a workshop on October 14, 2013 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: It was suggested by Mr. McInturff that item B. Minutes-Planning & Zoning Commission Meeting 9/16/13, items a. & b. be brought to Council together at a later date, since they are related and pertain to the same topic; fence heights.

Ratification of Resolution to Approve a Budget Adjustment for FY14: Mr. McInturff will present this item to Mayor and Council. On 9/9/13, Council approved a closed session item to make the appropriate budget adjustment for the purchase of lots 7 thru 12 and 15 thru 22 plus an unnumbered lot south of lot 15 of Block 79 of the Boles Addition. He stated that DFA requests that the adjustment be done in resolution format; thus the reason for the ratification of this resolution.

Mr. Caldwell, who was in attendance at the workshop, asked Mayor Silva if he could comment on this item. Mayor Silva allowed him to comment.

Larry Caldwell, 711 N. Zinc St., asked if the adjustment was an increase or transfer to the budget. Mr. McInturff stated that it is an increase to the budget as an interim budget adjustment. He asked for clarification of the amount and asked if this amount was approximately \$724,000 for the purchase of the property. Mr. McInturff verified that is was.

Ratification of Proclamation Declaring Pro Bono Day 2013: Mr. McInturff will present this item to Council. He stated that Pro Bono Day in Luna County will be on October 21, 2013.

Approval of the Rural Recycling Resources (R3) Marketing Cooperative Membership and Materials Marketing Agreement: Mr. Massengill will present this item to Mayor and Council. He stated that to his understanding, there was a previous agreement with the Marketing COOP and that this agreement would be for a 1 year period. He stated that the agreement would provide assistance in marketing the City's recyclables and with outreach of the program. Mayor Silva asked about the specific recyclables that would be accepted. Mr. Massengill stated that the recycle stations would accept paper, cardboard, plastic, and tin.

Mr. Caldwell asked Mayor Silva if he could comment on this item. Mayor Silva allowed his comment.

Mr. Caldwell stated that he felt since this is a contract, and is like an ordinance, that it should be allowed public comment at the meeting. Mayor Silva stated that it was an action item for Council and public comment is at his discretion.

Approval of Amendment to Resolution No. 05-72 Pertaining to Rules of Procedures and Ordinances: Mr. Sera will present this item to Mayor and Council. Mr. Sera stated that this resolution is a procedural guide for City Council and this amendment has a couple of changes that have been made to the original adopted resolution. On Page 3, 2.1B, a change was made for the submission of all materials to be presented to the City Council, from two to four days prior to the meeting date. Also, item D of the same section pertaining to the availability of the agenda was changed from 24 to 72 hours in advance of any meetings. These changes were made due to the new legislation that took effect in June 2013, in which agendas for meetings must be available 72 days prior to the scheduled meeting.

He went on to say, that on page 9; 3.3 Public Hearing Procedures, the original resolution was modeled more like a quasi-judicial hearing and the procedure was not in alignment with what is currently being done for public hearings, so the appropriate changes have been made.

He also stated that on page 10, a new section was added. Under 4.2 General Conduct of Staff and City Council Members, section A, states the requirement of the attendance of all newly elected officials to attend the "Newly Elected Officials" (or equivalent) training offered through the New Mexico Municipal League.

Mayor Pro Tem Franklin commented that though this is a good class, she doesn't feel that it emphasizes enough on the role for elected officials. She went on to say that she strongly recommends that the newly elected officials attend the MOLI-Municipal Officials Leadership Institute. She would like the resolution to require them to attend the MOLI. Mayor Pro Tem Franklin stated that it would be beneficial due to the fact that there will be several new elected officials coming in.

Mr. Sera stated that he and Mayor Silva had discussed this and felt that it could not be required for them to attend that course. Mr. McInturff stated that the resolution could state that it is "highly recommended", instead.

Mr. Sera went on to discuss item 4.2, B pertaining to the responsibility of all Council members. Mr. Inturff also commented on this item.

Public Hearing to Consider Adoption of an Ordinance to Grant a Gas Franchise Agreement: Mr. McInturff will present this item to Mayor Silva and Council. Mr. McInturff stated that the Gas Company of New Mexico has asked that this agreement be deferred as it is still in review. Mr. McInturff will ask that Council table the item for a later date, at which time it will be republished as a public hearing.

Public Hearing to Consider the Approval of a Restaurant Liquor License for Akhalpurkh Truckstop, LLC: Mr. McInturff will present this item to Mayor and Council.

Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for a Car Dealership at 205 S. Granite Street: Ms. Gentile, City Planner, will present this item to Mayor and Council. Ms. Gentile handed out an aerial photograph of the subject property. Ms. Jasso noted a discrepancy between the application and the documents presented to Council. Ms. Gentile stated that the subject area includes 200 through 206 S. Granite Street and that she will point that out in the meeting.

Bids:

- a. **Bid #14-05-Wastewater General Engineering (State):** Mr. Massengill will present this item to Mayor and Council.
- b. **Bid #14-06 Wastewater General Engineering (Federal):** Mr. Massengill will present this item to Mayor and Council.

Adjourn Meeting: With no further business to discuss, the workshop was adjourned at 4:23 p.m.



CITY OF DEMING, NEW MEXICO

Andres Z. Silva, Mayor

ATTEST:

Richard F. McInturff, Clerk

CITY COUNCIL MEETING MINUTES

October 14, 2013

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

Council Absent: None

Staff Present: Richard F. McInturff, City Administrator
Aaron Sera, Asst. City Administrator
Wesley Hooper, Community Svcs. Dir.
Jim Massengill, Public Works Director
Jim Foy, Assoc. City Attorney
Bobby Orosco, Police Captain
Gina Gentile, City Planner
Edgar Davalos, Fire Chief

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

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

1. Consent Agenda

- A. Minutes - City Council Workshop and Regular Meeting 9/9/13
- B. Minutes - Planning and Zoning Commission Meeting 9/16/13
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- G. Out-Of State Travel Request for Vicki Engle to travel to Scottsdale, Arizona on April 27-May 1, 2014 to attend the 2014 National Public Employers Labor Relations Annual (NPELRA) Training Conference and Workshops

Mr. McInturff stated that item B. Minutes-Planning and Zoning Commission Meeting 9/16/13, sub-items a. & b.; both items will be presented together, at a separate date. Mr. McInturff noted the out-of-state travel request for Vicki Engle to travel to Scottsdale, Arizona on April 27-May 2, 2014 to attend the 2014 National Public Employers Labor Relations Annual (NPELRA) Training Conference and Workshops.

Mayor Pro Tem Franklin motioned to approve the Consent Agenda with the recommendation of not addressing items a & b under the Planning and Zoning Commission Minutes until they both come before Council at a later meeting. Councilor Shattuck seconded the motion, motion carried unanimously.

2. **Public Forum:** A public comment session was entertained.

Edward Khanbabian, 1721 E. Pine St., commented as a member of the tourism board, asked what is keeping the City from putting up a "Welcome to Deming" sign at the I-10 exits coming into Deming. Mr. McInturff stated that the main impediment to do this is the NMDOT.

Councilor Milo interjected that Deming Rotary Club has erected 3 NMDOT approved signs, one on each end of I-10 and one on Highway 11.

Mr. McInturff also commented on the requirements of the NMDOT.

Mr. Khanbabian commented on the issue of transparency in the local government. He stated that it is felt that many times City Council uses a resolution in lieu of an ordinance in order to deter the public from commenting on certain issues. Mr. McInturff stated that many times, there is not a choice between the two, and a resolution is required to be adopted.

Mr. Khanbabian also commented on the new Motor Vehicle Department hours. Mr. McInturff asked that Mr. Khanbabian keep an open mind to the pilot ideas being directed to the local office by the state. They are implementing different ideas in hope of finding ways to cut down on wait times in the local office.

3. **Ratification of Resolution to Approve a Budget Adjustment for FY14:** Mr. McInturff referenced the resolution presented to Council. He stated that back in September, Council voted to approve a budget adjustment for the purchase of land for the Walgreens project. He explained that the New Mexico Department of Finance and Authority (DFA) have requested that the City approve the adjustment in resolution format. Therefore, staff recommends that Council ratify this resolution to present the budget adjustment to DFA.

Councilor Shattuck recused himself from voting on this item, and Mayor Silva acknowledged his request.

Councilor Milo motioned that Council ratify the resolution for the Budget Adjustment for FY14. Councilor Sanchez seconded the motion, motion carried unanimously.

4. **Ratification of Proclamation Declaring Pro Bono Day 2013:** Mr. McInturff presented this item to Mayor and Council. He read the proclamation into record.

Councilor Shattuck motioned to approve the proclamation declaring Pro Bono Day 2013, as presented. Mayor Pro Tem Franklin seconded the motion, motion carried unanimously.

5. **Approval of the Rural Recycling Resources (R3) Marketing Cooperative Membership and Materials Marketing Agreement:** Mr. Massengill presented this item to Mayor and Council. He explained that the City had a contract with the Marketing Coop, but it has expired. He referenced the updated agreement presented in their packets. He stated that the agreement identifies the Coop and member obligations. He stated that the Coop will assist the City with education and quality control, provide education and outreach assistance, and help the City to market the recyclables. The City's obligation is to collect the materials, as best as we can, in

saleable condition in bales, and work with the Coop to get the product ready for a buyer. Last year, under the previous contract, the recyclables that were made were at a minimal quantity. Recently, the Coop has helped the City in providing training in bailing paper. Staff has reviewed the contract and recommends that Council accept this agreement and executes it with the Coop.

Councilor Milo asked Mr. Massengill where the materials were shipped. Mr. Massengill answered that the Coop is located in Santa Fe and they handle the marketing of the product the City has for sale. The recyclables are sent to various locations, depending on where the company who needs it is located. The Coop coordinates between other communities to combine smaller loads to meet the needs in the market. Councilor Milo asked if the service is cost effective and that he understands it is a service to the community. Mr. Massengill stated that the recycle program costs the City, but an offset is the amount of material that does not have to go to the landfill.

Councilor Sanchez asked about the larger retailers in our community and if they utilize these services. Mr. McInturff interjected that many do their own bailing and selling of their recyclables.

Mayor Pro Tem Franklin motioned to approve the Rural Recycling Resources (R3) Marketing Cooperative Membership and Materials Marketing Agreement. Councilor Sanchez seconded the motion, motion carried unanimously.

6. **Approval of Amendment to Resolution No. 05-72 Pertaining to Rules of Procedure and Ordinances:** Mr. Sera presented this item to Mayor and Council. He stated that amendments to this resolution were discussed at the budget workshop in May. He noted the resolution was previously approved by Council and is incorporated with Ordinance 1.6.5.

Mr. Sera stated the first change is on page 3, Section 2.1(B): all materials to be presented to the City Council shall be submitted to the City Clerk/Administrator four days prior to the meeting. This was changed from two days due to recent legislation which requires that the agenda be available at least 72 hours in advance of any meeting (Section 2.1(D).)

Mr. Sera went on to say that on page 9, 3.3 Public Hearing Procedures, the original resolution was modeled more like a quasi-judicial hearing and the procedure was not in alignment with what is currently being done for public hearings, so the appropriate changes have been made.

He also stated that on page 10, a new section was added. Under 4.2 General Conduct of Staff and City Council Members, section A, states the requirement of the attendance of all newly elected officials to attend the "Newly Elected Officials" (or equivalent) training offered through the New Mexico Municipal League. He read this section into record. He stated that during the workshop, earlier this afternoon, it was highly recommended that the newly elected officials attend the MOLI-Municipal Officials Leadership Institute-and that this be added to the resolution.

Mr. Sera went on to explain item B, which describes the responsibility of all Council member's conduct. He read this section into record, which speaks of using the chain of command regarding employee contact pertaining to the community.

Mayor Pro Tem Franklin suggested that there be a requirement of a written request to the department head or administrator in order to advise the City of the issue. It could then be relayed to the proper department head. Also, there would be written request of the issue. The response would need to be in writing so that the Council member could respond to their constituents.

Mr. McInturff stated that there is a work order process in place for operational requests for the community.

Mayor Silva asked if they would like to work on the wording for the amended resolution or if they would like to include it in the motion.

Mayor Pro Tem motioned that Council approve the City of Deming, New Mexico Resolution No. 05-72 Pertaining to the Rules of Procedure and Ordinances with staff inserting the recommendation in section 4.2 (A), that newly elected officials are highly recommended to attend the MOLI and that in section (B) the process for Council members to report concerns from constituents to staff be included, as well. Council Shattuck seconded the motion, motion carried unanimously.

7. **Public Hearing to Consider the Adoption of an Ordinance to Grant a Gas Franchise Agreement:** Mayor Silva entertained a motion to table this item. Mr. McInturff interjected that the Gas Company of New Mexico has not yet responded to the agreement which is still under review by their legal department. Once reviewed, it will be presented at a later meeting.

Councilor Milo motioned to table the Gas Franchise Agreement. Councilor Sanchez seconded the motion, motion carried unanimously.

8. **Public Hearing to Consider the Approval of a Restaurant Liquor License for Akhalpurkh Truckstop, LLC:** Mayor Silva asked Mr. Foy to explain the process of responding to this liquor license request. He stated that Council can only deal with issues concerning the health, safety and morals of the residents of the community.

Mr. McInturff stated that this application is for a restaurant liquor license to sell beer and wine in the restaurant only, no package sales. He stated that the previous owner held the same type of license and this request is a result of the new ownership.

Mayor Silva opened the floor for public comment. He asked for members of the public who are in favor of approving this application.

Edward Khanbajian, 1721 E. Pine St., asked for clarification of the location. Mayor Silva stated that this request is for the truck stop located at 1310 W. Spruce Street. Mr. Khanbajian stated that he is for approval of this request, as long as they adhere to the state and city laws.

Mayor Silva then asked for members of the public who are against the approval of this application. There were none. With that, Mayor Silva entertained a motion from Council.

Councilor Shattuck motion that Council approve the Restaurant Liquor License for Akhalpurkh Truckstop, LLC. Councilor Milo seconded the motion, motion carried unanimously.

9. **Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for A Car Dealership at 206 S. Granite Street:** Mayor Silva asked Ms. Gentile to clarify the address of the subject property. Ms. Gentile stated that the subject property contains from 200 to 208 S. Granite Street, but for this purpose it would be referred to as 200 S. Granite Street.

Mayor Silva conducted a Quasi-Judicial Public Hearing to consider granting a special use permit for a car dealership to be located at 200 S. Granite Street. Mayor Silva 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, briefed Mayor and Council regarding this case and stated that the case was previously presented to Council and was tabled pending the applicants submitting a proper site plan.

Councilor Sanchez asked what the zoning of the subject property is. Ms. Gentile stated that the subject property is zoned commercial with the property directly adjacent is zoned multi-property.

Council Milo expressed his concern about the fence. Ms. Gentile stated that the applicants have indicated that they will be using the existing poles that have been erected and their intention is to have an 8 foot fence surrounding the car dealership.

Mayor Silva asked the applicant if they had anything to say to Council. Ms. Arreola, 2213 S. Gold Ave., stated that their intention is to have a car dealership at this location.

Councilor Milo reminded the applicant that they would have to comply with all City ordinances regarding the fencing around the business.

Councilor Sanchez suggested that the applicant post a sign at the Granite street entrance directing traffic that this would be a one-way exit. Ms. Arreola state that they would do so.

Ms. Pauline Martin, 210 S. Granite Street, spoke as an affected party. She stated that the proposed driveway is approximately 2 ½ to 3 feet from her property. She stated that her concerns were addressed previously, but she would like to readdress them for consideration. She stated them as follows:

1. She stated that the demolition of the existing building on the subject property. She stated that the house needs to be torn down and that debris from the roof of the building blows in the whole area.
2. She stated that she is concerned about the close proximity of the driveway on the site plan. She would like the driveway to be moved over 10 or more feet to the north to keep traffic from driving on to her lawn.
3. She is concerned about the hours of business. She stated that the zoning is commercial but there is residential zoning nearby.

4. She is concerned about the noise, mechanical and musical. She also mentioned the potential of mechanical pollution.
5. She is concerned about parking for this business. She does not feel that there would be sufficient parking along the street. She feels that they may start parking in front of her property, blocking her mailbox and driveway.
6. She is concerned about the type and height of the fencing.
7. She mentioned the lighting on the property shining into her home at night.

Ms. Martin stated that she has no objection to anyone opening a new business; she just wants her concerns to be known before a decision is made. She stated that she would appreciate their consideration of her concerns.

Councilor Shattuck asked Ms. Martin if she had seen a copy of the site plan. She stated that she had not. Ms. Gentile provided her with a copy and explained the drawing specifically the parking, building location, driveway ingress and egress. After looking at the drawing, Ms. Martin feels that the location is still too close to her property.

Ms. Gentile stated that the applicant intends for the fencing to be an 8 foot, chain link fence.

Ms. Martin asked about the location of the building in proximity to her property. Ms. Gentile stated that the drawing show it will be 14 feet from the property line.

Mr. Sera stated that the driveway could be moved no closer than 50 feet from Spruce Street.

Mayor Silva called any other parties who would like to speak.

Edward Khanbabian, 1721 E. Pine St., asked if this is a new business or a change of location of an existing business. Ms. Arreola stated that this would be a new business.

He then asked if the property is own or leased by the applicant. Ms. Arreola stated that her father owns the business. Mr. Khanbabian asked if they currently or have ever sold automobiles. Ms. Arreola stated that they currently do not. Mr. Khanbabian asked if they will conduct any automobile repair or body work on site. Ms. Arreola stated that they would not have a garage or do mechanic work on the site. Mr. Khanbabian stated that he just wanted clarification and that he is in favor of anyone opening a new business, as long as they honor and respect their neighbors and ordinances.

Fred Lucero, General Contractor from Las Cruces, stated that he has been contact by the Arreolas and stated that first there would have to be a demolition of the existing building and that everything would be done as per code. Councilor Sanchez asked Mr. Lucero what hours he would work while demolishing the building. He stated that he would work Monday through Friday, 8 a.m. to 5 p.m. at the latest. Mr. Lucero asked Mrs. Martin if she would have any objection to him working on Saturdays. Ms. Martin stated that she had no objection as long as it wasn't going on all day. Councilor Shattuck asked Mr. Lucero what the time frame would be for the demolition. Mr. Lucero stated that it would take him approximately 3 days, and he would let Ms. Martin know when the demolition would begin prior to him starting. Councilor Shattuck

asked Mr. Lucero how long it would take him to complete the building construction. Mr. Lucero stated that it would take him from 6 to 8 weeks to complete the new building.

Councilor Sanchez asked the applicant what hours of operation they would have for their business. The applicants answered that they would operate from 9 a.m. to 5 p.m. on Monday through Saturday. Councilor Sanchez recommended that the hours of operation be noted in the permit. Councilor Sanchez also recommends that the permit should note that no mechanical or body work will be performed on the site. Ms. Arreola stated that Ms. Martin should not be concerned about any loud noise, and that they would keep the noise level to a minimum. Councilor Sanchez also noted the comment from Mr. Sera regarding moving the Granite Street driveway to the 10 to 20 feet north, closer to Spruce Street. The applicants said they would have no problem looking at that option. Mr. Sera advised that the City Engineer look at the site plan and make a recommendation regarding the repositioning of the driveway.

Councilor Shattuck referred to the drawing and asked the applicant how many display vehicles they anticipate they can park on the lot. Ms. Arreola stated that they would have 10 to 12 vehicles on the lot.

Mayor Pro Tem Franklin asked the applicant if there would be any room for customers to park. The applicant stated that there would be parking spaces for customers and they referred to the site plan.

Councilor Milo asked, if the permit is approved, how long before they would start conducting business on the site. The applicants stated that once approved, they would be able to start immediately. They stated that they have an RV which they could use as a temporary office while the building is being erected. Ms. Gentile informed the applicant that an RV on the site would not be allowed due to the zoning restrictions. Ms. Gentile stated that RVs are prohibited in commercial zoned areas. Ms. Gentile explained they could not open for business until the improvements were completed. The applicants asked if they could use the RV on a provisional basis. Ms. Gentile and Council informed them that it could not be done.

Ms. Martin asked when the demolition would commence. Mr. Lucero stated that it would be 2 to 3 weeks before the demolition would start.

With no other comments, Mayor Silva closed the public comment session and entertained a motion from Council.

Council Sanchez motioned to grant a Special Use Permit for a car dealership at 200 S. Granite Street, as presented; with the hours of operation, the prohibition of any mechanical or body work to be done on site, and the relocation of the driveway as recommended by the City Engineer. Councilor Shattuck seconded the motion, motion carried unanimously by a roll call vote.

ROLL CALL VOTE

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

10. Bids:

- a. Bid #14-05 Wastewater General Engineering (State):** Mr. Massengill stated that the current Wastewater General Engineering contract will expire in November and that the RFPs for both state and federal funding were advertised for 4 years. He read the recommendation memo into record. He mentioned that 10 proposals were received. He went on to say that according to State procurement regulations, as projects are funded, it is at the City's discretion to choose any one of the firms on the list not necessarily the highest ranked firm. Mr. Massengill stated that staff is requesting awards from City Council for RFP 14-05 and allow staff to negotiate and execute any documents related to Waste Water General Engineering Services with the following firms:

1. Smith Engineering
2. Engineer's, Inc.
3. Dennis Engineering

Councilor Shattuck motioned to approve the RFP #14-05 Wastewater General Engineering Services (State) as listed with 1. Smith Engineering, 2. Engineer's, Inc., and 3. Dennis Engineering. Councilor Milo seconded the motion, motion carried unanimously.

- b. Bid #14-06 Wastewater General Engineering (Federal):** Mr. Massengill stated that this is the same scenario as the previous RFP with the exception of this one being for federal funding. He stated that 10 proposals were received, were reviewed, and ranked by staff. Staff is requesting award from City Council for RFP 14-06 and allow staff to negotiate and execute any documents related to Waste Water General Engineering Services with the following firms:

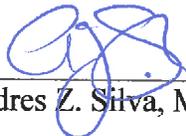
1. Smith Engineering
2. Engineer's, Inc.
3. KSA Engineering

Councilor Shattuck motioned to approve RFP #14-06 Wastewater General Engineering Services (Federal) as listed with 1. Smith Engineering, 2. Engineer's, Inc., 3. KSA Engineering, as presented. Councilor Milo seconded the motion, motion carried unanimously.

- 11. Adjourn Meeting:** With no further business to discuss, Councilor Sanchez motioned to adjourn the meeting. Councilor Milo seconded the motion, motion carried unanimously.
Meeting was adjourned at 7:15 p.m.

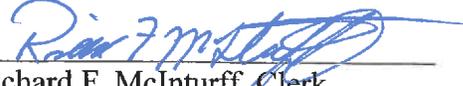


CITY OF DEMING, NEW MEXICO



Andres Z. Silva, Mayor

ATTEST:



Richard F. McInturff, Clerk

STATE OF NEW MEXICO
MUNICIPALITY OF CITY OF DEMING

RESOLUTION NO. 13-42

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 9th day of September, 2013.

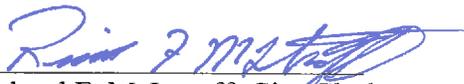
CITY OF DEMING, NEW MEXICO





Andres Z. Silva, Mayor

ATTEST:



Richard F. McInturff, City Clerk



PROCLAMATION PRO BONO DAY 2013

WHEREAS, one in every four of the 1,750,988 New Mexicans live in poverty and experience legal problems, with the majority of these civil problems being family law issues (divorce, child support/custody, abuse) consumer issues (creditor harassment, utility non-payment, bankruptcy issues), health issues (Medicaid, government insurance, nursing home), employment issues (unemployment benefits, pension, lost job), and housing issues (unsatisfactory repairs, foreclosure, eviction, poor living conditions); and

WHEREAS each year the low-income citizens of Deming lack access to legal assistance for their legal problems that are often critical to their safety and independence, forcing them to resolve complex legal problems on their own; and

WHEREAS, the need for legal aid in New Mexico is dire, funding for low-income New Mexicans who need civil legal assistance has not yet been met, with the consequences being a lack of access to justice which is devastating for the poor and which weakens our democratic society as a whole; and

WHEREAS, although 72% of the members of the legal community in the Sixth Judicial District donated their time and talents in free legal services each year, a huge unmet need for legal assistance remains for the disadvantaged in our area; and

WHEREAS, sponsored by the Access to Justice Commission and the American Bar Association with support from local pro bono committees statewide, Pro Bono Day 2013, on October 21, 2013, will educate the public about the extensive work New Mexico lawyers are doing by donating their time to improve the lives of vulnerable members of our community, and will encourage more individuals in the legal community to get involved in pro bono work and financially support the legal aid system; and

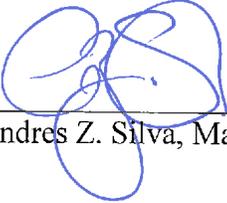
WHEREAS, Pro Bono Day 2013 will feature legal clinics throughout the State, assisting New Mexicans who greatly need legal assistance but cannot afford to pay for that help, and will also feature recognition events throughout the State of New Mexico honoring lawyers and judges for making a difference in New Mexico:

NOW, THEREFORE, I, Andres Z. Silva, Mayor of the City of Deming, do hereby proclaim October 21, 2013 to be PRO BONO DAY, and urge all residents to recognize the contributions of our legal community helping those most in need.

Done this 14th day of October, 2013, in the City of Deming, New Mexico.



Attest:



Andres Z. Silva, Mayor



Richard F. McInturff, Clerk

CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 05-72-A
PERTAINING TO RULES OF PROCEDURE
AND ORDINANCES

The City Council, City of Deming, New Mexico, at its regular monthly meeting on October 14, 2013, does hereby resolve and adopt the following Rules of Procedure and General Conduct:

1.1 Meetings

- A. Meetings of the City Council shall be held in accordance with Section 1-6-2 & 3 City Code, and in compliance with the Open Meetings Act, NMSA, 1978, §10-15-1 et. seq.
- B. All binding actions of the City Council shall be taken at regular meetings, special meetings, or emergency meetings.
- C. The City Council may recess and reconvene a meeting to a subsequent date provided that prior to recessing, the presiding officer specifies the date, time, and place for continuation, and within 24 hours or next business day of the original meeting posts notice of the date, time, and place for the reconvened meeting on or near the door of the Council Chambers and in the lobby of City Hall. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.
- D. Notice of all meetings shall be in accordance with the City Open Meetings Resolution.
- E. Work Sessions will be held in accordance with the Open Meetings Act, NMSA, 1978, Sections 10-15-1 to 10-15-4 and are for the purpose of examining issues, but no official action may be taken. Work sessions will be non-mandatory and public input will be allowed only at the discretion of the presiding officer.

1.2 Attendance

- A. Members of the City Council are expected to attend all scheduled meetings and shall make every effort to attend all special meetings, emergency meetings and work sessions.

1.3 Duties of the Presiding Officer

- A. The Mayor shall possess the powers and perform the following duties:
 - 1. Preserve order and decorum and have general direction of the Council Chambers.

2. Announce the business before the body in the order in which it is to be acted upon.
 3. Recognize the speakers entitled to the floor and guide and direct the proceedings of the body.
 4. Call for public input on agenda items when appropriate.
 5. Decide all points of order, subject to appeal, unless he prefers to submit the question to the decision of the City Council.
 6. Put to vote all questions which are regular moved or otherwise arise in the course of the proceedings.
- B. In the absence of the Mayor, upon his inability to act, or upon the request of the Mayor, the Mayor Pro Tem shall preside and shall have all the powers and authority of the Mayor. In the absence of the Mayor and Mayor Pro Tem, a council member shall preside. See Section 1-6-3.

1.4 Adopted Rules

- A. Any matter not covered by these rules shall be governed by decision of the presiding officer.
- B. Amendment of Rules. These rules or any part thereof may be amended, repealed, altered or rescinded by a vote of a majority of the City Council, after notice of intended proposal. Such notice shall be presented by resolution at a regular meeting of the City Council.
- C. Suspension of Rules. Except for charter, statutory, or ordinance provisions, these rules, or any part thereof, may be temporarily suspended by a majority vote of councilors present. When the suspension of a rule is requested, and no objection is offered, the presiding officer shall announce the rule suspended, and the City Council may proceed accordingly.
- D. Violation of Rules. Violation of these rules does not invalidate action of the City Council.

ARTICLE II PROCEDURES

2.1 Preparation and Distribution of Agendas

- A. The City Clerk/Administrator shall prepare the agenda for all City Council meetings.

1. The City Clerk/Administrator may place matters on the consent agenda which are routine or ministerial in nature.
 2. The City Clerk/Administrator shall assure that scheduled public hearings have been duly advertised.
- B. All material to be presented to the City Council shall be submitted to the City Clerk/Administrator four days prior to the meeting date.
 - C. The agenda, along with introductions and related material, shall be available to each member of the City Council in advance of the meeting.
 - D. The agenda shall be available at City Hall at least 72 hours in advance of any meetings.

2.2 Minutes

- A. Minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken, that show how each member voted.
- B. Approval of the minutes shall be placed on the consent agenda. Unless a reading of the minutes is requested by a member, the minutes of previous meetings may be corrected and approved without reading.
- C. Previously approved minutes may be corrected whenever an error is noticed.

2.3 Order of Business

- A. The order of business of the City Council shall be conducted in the following order: provided, however that the presiding officer may, during a meeting, rearrange items on the agenda to conduct the business before the City Council more efficiently:

Call to order and Pledge of Allegiance

Proclamations and Awards of Merit

Consent Agenda: The consent agenda is approved by a single motion.

Any member of the City Council may request an item to be withdrawn from the consent agenda without discussion or vote.

Public Forum

Agenda Items: Discussion and Deliberation

Comments by City Councilors

Scheduled date of next meeting

Adjournment

D. The order of business for work sessions shall be conducted in the following order:

Call to Order

Discussion

Adjournment

2.4 Ordinances and Resolutions

A. **Ordinances.** An ordinance ranks highest in authority of all actions of the City Council. If duly enacted, an ordinance has the force of law within the municipality and may be enforced in municipal court.

1. Ordinances shall be adopted in accordance with Section 3-17-1 et seq. NMSA 1978, and Section 1-6-5 of the City Code as amended.
2. A Proposed ordinance must be introduced at a public meeting of the City Council. Any amendments thereto must be introduced at the same meeting or a subsequent meeting. A final proposed ordinance must be approved by a majority vote of the City Council for adoption at subsequent meeting after the required publication has been completed.
3. For purposes of proposing an ordinance, the ordinance may be summarized and not read verbatim.

B. **Resolutions.** A resolution is an internal legislative act which is a formal statement of Policy, concerning matters of special or temporary character.

1. City Council action shall be taken by resolution when required by law and in those instances where a formal expression of policy is desired.
2. Resolutions shall be adopted subject to Section 1-6-5A.6 of the City Code when applicable and shall remain in effect until rescinded or replaced by a subsequent resolution on the same subject.
3. Resolutions may be amended by majority vote of the Council.

C. **Withdrawal of Ordinances and Resolutions**

An ordinance or resolution which has been introduced is in the possession of the City Council and may be withdrawn only with the consent of the City Council.

2.5 Approvals

A. Approvals are the class of action in which the City Council shall make the final determination upon the recommendation of the Mayor or the City Administrator. Those items requiring approval by the City Council shall include, but not be limited to:

1. Mayor's communications recommending appointments to boards and commissions;
 2. City Administrator communications recommending approval of contracts, administrative or departmental requests.
- B. Approvals which have been introduced maybe withdrawn upon an affirmative vote of the City Council.

2.6 Appeals

Appeals to the City Council are the class of action mandated by the charter, statutory or ordinances provisions.

2.7 Proposals for Action

- A. Proposals for action shall be presented to the City Council for its determination as a definite proposition in the form it is desired that the action be taken or question resolved.
- B. Proposals for action shall be in the format adopted by the city administration.

2.8 Motions

- A. Presentation of Motions
 1. Main Motion. A main motion presents an ordinance, resolution, or other proposition for the passage, adoption, approval, or rejection. The question is usually stated in the positive form, "to pass", "to adopt", to approve", "to confirm", and "to concur".
 2. A main motion must be seconded and only one main motion maybe on the floor at a time. A councilor may give brief explanatory comments before stating the motion. In the absence of a second, the motion fails.
 3. Motions become the official recorded statement of an action taken by the City Council. A motion should therefore be worded in a concise, unambiguous, and complete form appropriate to such a purpose.
 4. A motion should not be offered if it's only effect is to propose that the body refrain from doing something since the same result can be accomplished by no motion at all.
- B. Withdrawal and Modification of Motions. Until a motion is seconded and stated, the mover may withdraw or modify the motion without consent. When a motion is seconded, and stated, it is in the possession of the City Council and can, therefore be withdrawn or modified only by consent of the body.

2.9 Postponement of Action

Postponement or to table. The motion to postpone or to table defers action on a pending question to the same meeting or to some definite day or meeting. When the time to which a question has been postponed arrives and the question is taken up, it can be postponed again if the additional delay will not interfere with the proper handling of the postponed question.

2.10 Reconsideration of Action

The purpose is to permit the City Council to reconsider a vote on previous action. The reconsideration of a negative vote on final action is as proper as reconsideration of a favorable vote.

A. Right of Reconsideration

The motion to reconsider may be made at the same meeting or a subsequent meeting. However, certain rules apply as appropriate under the circumstances.

1. The motion must be made by a member who voted on the prevailing side.
2. The motion to reconsider is inappropriate after the action taken has gone into effect or after it is too late for any reason, to reverse the action taken.
3. The determination of reconsideration is dependent on the passage or failure of the motion for reconsideration.
4. Should the motion for reconsideration pass, the item is immediately before the City Council to be acted upon or scheduled for hearing at a subsequent meeting.
5. Should the motion for reconsideration fail, the item remains as adopted.
6. Either the motion to reconsider or notice of intent to reconsider must be made not later than the next regular meeting. A member of the City Council may indicate notice of intent to propose reconsideration either orally or in writing.

B. Effect of Reconsideration.

The effect of making the motion to reconsider, or of giving notice of the motion, is to suspend all action on the subject of the motion until the reconsideration is acted upon.

C. Reconsideration at a subsequent meeting.

1. When notice is required for a question, the City Council shall comply with all rules requiring public notice.
2. If reconsideration will be taken up at a subsequent meeting, notice of intent will be placed on the agenda. The determination of reconsideration is dependent on the passage or failure of the motion for reconsideration.

D. Debate of Motion.

Debate on the motion to reconsider will be limited to the merits of the reconsideration and not the merits of the question to be reconsidered.

E. **Vote.**

The passage of the motion to reconsider requires a majority vote, even if the measure to be reconsidered requires a two-thirds vote.

2.11 Appeal a decision of the presiding officer. An appeal must be made promptly before any debate or other business has intervened. When an appeal is taken, the presiding officer should clearly state the decision being appealed and may state his or her reasons for his or her decision. If there is no debate, or when debate is concluded, the presiding officer may put the question to the City Council. A majority vote of those present sustains a decision of the presiding officer.

2.12 Amendments.

- A. Every amendment proposed must be relevant to the subject of the proposition.
- B. Rejection of an amendment leaves the pending question worded as it was before the amendment was offered.
- C. Form of amendments.
 - 1. Amendments should be offered in a concise, unambiguous and in a complete form of a motion.
 - 2. In form, amendments may be divided into the following types:
 - a. To add (that is to place at the end)
 - b. To insert
 - c. To strike out
 - d. To strike out and insert

ARTICLE III

RULES OF ORDER

3.1 Rules of Debate

Debate is the essential feature of a legislative body. It is the means by which the opinions of members are exchanged, questions deliberated and conclusions reached on the business before the body.

A. To permit debate:

1. There must be a debatable question before the body, and one member must have been recognized as entitled to speak.
2. Debate must be confined to the question before the body.

B. Time Limits. The presiding officer may set time limits in debate.

3.1.1 Rules of Voting

- A. Each Councilor in attendance must vote for or against all measures before the City Council, unless there is a conflict of interest, for which abstention is recognized. Such conflict of interest disclosure shall be recorded in the minutes.
- B. A member shall not explain his or her vote during voting, which would be the same as debate at such a time.

3.2 Decorum

- A. Members of the City Council shall confine their remarks to the question under discussion or debate, avoiding personal references or attacks on fellow members, staff members or members of the public. No member of the City Council shall engage in private discourse or commit any other act tending to distract the attention of the City Council from the business before it.
- B. A member who resorts to persistent irrelevance or persistent repetition may be directed to discontinue his or her speech by the presiding officer.
- C. Point of Order. A councilor may call attention to the violation of the rules or a mistake in procedure by rising to a point of order. The presiding officer may permit a full explanation before ruling on the claim and may submit the question to the City Council for decision by a majority vote. The presiding officer is not required to decide any point of order not directly

presented in the proceedings of the body. Such an assertion does not require a second, is neither debatable nor amendable and cannot be reconsidered.

- D. Question of Privilege. Questions of privilege do not relate to pending business, but have to do with special matters of immediate and overriding importance which, without debate, should be allowed to interrupt the consideration of anything else. The presiding officer makes a ruling as to whether it is admitted as a question of privilege and whether it requires consideration before the pending business is resumed.

3.3 Public Hearing Procedures

- A. Notice of public hearings shall be given in accordance with state statute to all interested people. Notice of public hearings shall state the subject, the time and place of the public hearing, the manner in which interested people may express their views and where interested people may obtain copies of the material that is the subject of the hearing.
- B. A meeting of the City Council is called to order and business, if any, is considered until the public hearing comes on the agenda.
- C. At the beginning of the public hearing, the presiding officer shall require that all interested persons, who have an immediate, pecuniary or direct interest that will be substantially and specifically affected by the proceeding, and witnesses sponsored by such interested persons, wishing to address the City Council, giving their names and addresses, and whether they wish to speak as a proponent, opponent, or otherwise when called forward to speak. Any person who fails to provide this information shall not be permitted to speak.
- D. The presiding officer may change the order of speakers so that testimony is heard in the most logical groupings, proponents, opponents, adjacent owners, vested interest, etc.
- E. The presiding officer may establish reasonable speaker time limits and otherwise control presentations to avoid repetition or the introduction of incompetent evidence. Additional time may be granted if appropriate and necessary.
- F. After the City Council has heard all interested parties, the presiding officer closes the public hearing, and discussion occurs among the body. Comments from the general public on legal or policy matters raised by the proceeding may not be addressed after the close of the public hearing. The presiding officer calls for a motion. Results of Council's motion shall be entered into the record of the hearing in written form.

ARTICLE IV

GENERAL PROCEDURES

4.1 Councilor's Responsibilities

- A. Initiation of Proposals for Action
- B. Requests for initiation of legislation shall be directed through the City Administrator. As sponsor of legislation, it is the responsibility of the Councilor to present the proposal to the City Council. City staff is available to assist in the preparation of the necessary documents.
- C. In addition to other duties, responsibilities and rights, the City Council shall:
 - i. In all public statements, make clear that they speak only for themselves unless authorized by the Mayor or a majority of the Council to speak for the City Council as a whole.
 - ii. Insure that the Mayor is informed, as soon as practical, of significant communications with outside entities, be they either directed to, or initiated by the Councilor.

Refrain from negotiating contracts on behalf of the city, without authority from the City Administrator. Only the City Administrator or his designee can negotiate a contract on behalf of the city.

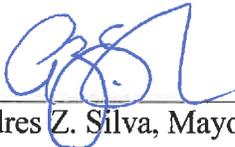
4.2 General Conduct of Staff and City Council Members

- A. It is to the benefit of the City that all elected officials receive training and instruction for their respective role in the elected office. All newly elected members of council shall have half of their compensation deferred until the class "Newly Elected Officials" (or equivalent) has been completed through the New Mexico Municipal League. Upon completion, all deferred compensation will be awarded retroactively. It is also highly recommended that all newly elected members of council attend the Municipal Officials Leadership Institute (MOLI) provided by the New Mexico Municipal League.

B. It shall be the responsibility of all Council members to conduct themselves with the utmost of ethical behavior, not utilize their position for personal gain or favors, not direct employees of the City of Deming in any matters, concerns, or their duties and not intervene in any personnel matters. Communication with staff regarding personal (e.g. private, individual) or public policy issues are encouraged to build a foundation of trust. When approached by staff regarding work related issues, members of Council and the employee should meet together with the City Administrator to further discuss and resolve these issues. Action items being requested by elected officials from staff should be initiated through the City Administrator and the appropriate Director of the effected department and should be communicated in writing with email being an acceptable form of communication. Likewise, staff should always communicate work and personnel related matters using the chain of command and adhere to the Personnel System Ordinance (Title One Chapter Eight) and the Personnel Policies & Procedures Manual including the Administrative Regulations.

PASSED, ADOPTED, AND APPROVED this 14th day of October, 2013





Andres Z. Silva, Mayor



Richard F. McInturff, City Administrator / Clerk