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POPULATION 14,000

CITY COUNCIL MEETING

January 10th, 2011

4:00 P.M. CITY COUNCIL WORKSHOP

6:00 P.M. CITY COUNCIL MEETING

AGENDA

Call to Order / Pledge of Allegiance

1. Consent Agenda
 - A. Minutes - City Council Workshop and Regular Meeting 12/13/10
 - B. Minutes – Tourism Development Committee 12/08/10
 - C. Minutes – P&Z 12/20/10
 - D. Minutes - Airport Commission 12/21/10
 - a. Recommendation to decline any business that will create a junk yard look at the airport
 - b. Recommendation to contact the National Resources Soil Conservation Department to determine if they can assist with the cost of removing the mesquites and to apply if necessary
 - E. Minutes - Parks Commission 12/21/10
 - a. Recommendation to split the existing dog park for large and small dog designated areas
 - F. Minutes – Marshall Memorial Library 12/28/10
2. Public Forum
3. Presentation of Certificate of Appreciation to Kris Leck
4. City Section 3 Plan; Residential Anti-Displacement and Relocation Assistance Plan; Local Relocation Policy, and Community Development Block Grant Program Citizen Participation Plan
5. Out of State Travel Request by Michael Carillo to Attend a Meeting Concerning the Gang Task Force in Palm Springs, CA on January 19 through 20, 2011
6. Out of State Travel Request by Michael Carillo to Attend a REMI Training in Tulsa, OK on February 14 through 17, 2011
7. Out of State Travel Request by Ernest Jasso to Attend the National Animal Control Association Training Academy in Phoenix, AZ on February 7 through 11, 2011
8. Mayor's Appointment of Public Works Director
9. Ratification of Administrative Regulations DM09-18 Pertaining to Accident and Injury Review
10. Resolution: To Determine what Constitutes Reasonable Notice of Public Meetings as Required by the Open Meetings Act, Section 10-15-1 (D)
11. Resolution Adopting Regulations Regarding the Procurement Process
12. Resolution: Adopting Regulations Governing The Per Diem and Mileage Act Pursuant to NMAC 2.42.2
13. Bids
 - a. Bid #11-11 Sewer Main Installation
14. 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

15. Open Session: Motions if any

16. Adjourn Meeting

There is a Special Council Meeting Scheduled for January 21, 2011 at 9:30 a.m.

The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., February 14th, 2011.

CITY COUNCIL WORKSHOP MINUTES January 10, 2011

Council **Andres Z. Silva, Mayor** **William Shattuck, Mayor Pro Tem**
Present: **Linda Enis, Councilor**

Absent: **Joe "Butter" Milo, Councilor** **David Sanchez, Councilor**

Staff **Richard McInturff, City Administrator** **Aaron Sera, Community Svcs. Director**
Present: **Mary Jo Valdez, City Clerk** **Edgar Davalos, Fire Chief**
 Richard Kocab, Assistant Treasurer **Louis Jenkins, Public Works Director**
 Premal Patel, Planner **Lawrence Brookey, Asst. Public Works Director**
 Michael Carillo, Chief of Police

The Mayor and the City Council of Deming, New Mexico held a workshop on January 10th, 2011 at 4:00 p.m. to discuss items on the agenda of the City Council Regular Meeting scheduled for 6:00 p.m. the same day.

Mr. McInturff stated that the Airport Minutes under the consent agenda reflects a misinterpretation to decline an inquiry by Project Adventure. Mr. McInturff explained that staff received an inquiry from Project Adventure requesting the use of the airport for parts repair. Mr. McInturff stated that the Airport Commission Minutes reflected a motion to decline any business that will create a junk yard look at the airport; and suggested that the motion was off point, further suggesting declining the request to use the Airport by Project Adventure.

Mr. McInturff noted that item b. under the Airport Minutes was a recommendation for staff to contact NRCS to determine if the City was eligible to receive assistance for the removal of mesquites. Mr. McInturff stated that the City is not eligible for the program; explaining that it is an agricultural program and suggested that Council decline the recommendation.

Mr. Sera stated that Mr. Leck had approached him asking for an idea of a project which he could complete because he wanted to contribute something back to the community. Mr. Sera stated that Mr. Leck had been a great help through his services in up keeping the soccer fields. Mr. Sera stated that Mr. Leck had reseeded the grass, set timers for watering, and performed other ground maintenance which ended approximately in November. Councilor Enis asked if there was an amount to reflect how much money Mr. Leck saved the City by performing the maintenance work at the soccer fields. Mr. Sera stated that he didn't have an exact amount; adding that the maintenance, reseeded, and labor saved the City a pretty good amount of money.

Mr. McInturff stated that the Section 3 Plan, Residential Anti-Displacement and Relocation Assistance Plan, Local Relocation Policy, and CDBG Program Citizen Participation Plan were annually adopted plans. Mr. McInturff stated that the Section 3 Plan is to offer preferences for anticipated local hiring of low-income employees which are not requirements, they are goals. Mr. McInturff stated that contractors submit their own Section 3 Plans. Mr. McInturff stated that the Anti-Displacement and Relocation Policies are companion policies which reflect the City's efforts to comply with the requirements in the event that families are needed to be relocated for a CDBG project to be completed. Mr. McInturff noted that the City has participated in CDBG projects for approximately 14 to 15 years and have not displaced any families to date.

Chief Carillo stated that he is the Director for the NM Gang Task Force and is requesting permission to travel out of state to Palm Springs, CA on January 19 through 20, 2011 in efforts to present a memorandum of understating, which has been approved by the State of NM, to the Attorney General of California which proposes that border states network their gang intelligence systems. Chief Carillo stressed the importance of having a network since major gangs are influencing NM. Chief Carillo stated that the trip would be fully funded through the NM Gang Task Force. Mayor Silva stated that the network was an excellent plan to allow agencies to share information. Chief Carillo stated that the system is law enforcement sensitive and that users must be CFR28 certified before they can access the system.

Chief Carillo stated that he has been requested to attend a conference by Rural Executive Management Institute (REMI) to provide training to Oklahoma attendees. Chief Carillo stated that he has declined to attend in the past an effort to limit his amount of travel and away from the station and is requesting to attend the REMI training in Tulsa, Oklahoma on February 14 through 17, 2011. Chief Carillo stated that the expenses will be paid through the National Center for Rural Law Enforcement. Chief Carillo also stated that he has nominated Under Sheriff Carter, Captain Gigante and Lt. Chadborn as participants for future trainings.

Chief Carillo requested Council's approval to allow Mr. Ernest Jasso to attend the National Animal Control Association Training Academy in Phoenix, Arizona from February 7 through 11, 2011. Chief Carillo explained that a state training is offered in November; however the department was only able to send Ms. Darrow in November to leave Mr. Jasso available for duty.

Mr. McInturff stated that the ratification of the administrative regulation will clarify the penalty assessed for accidents in the event that an officer is to be assessed a penalty. Mr. McInturff explained that the Police Department bargaining unit agreed to give up their accident free day in exchange for a raise. Mr. McInturff further explained that they are usually assessed a day without pay and in efforts to not have their pay affected if they are found guilty by the accident review board, they have agreed to give up 8 hours of annual leave for their day without pay.

Mr. McInturff stated that the resolution pertaining to the Open Meetings Act is an annually approved resolution to determine when City Council meetings will be held as well as the procedures of public notices.

Mr. McInturff stated that the procurement and per diem resolutions are also annually approved; explaining that state laws are adopted by the City for both resolutions.

Mr. Brookey stated that staff received six responsive bids; adding that Shiya Strehphans was the lowest bidder. Mayor Pro Tem Shattuck asked about the discrepancy between the bids of about \$200,000, asking if the bid submitted by Shiya included all the work required in the specifications. Mr. McInturff added that references for Shiya have been called and the company has been performing projects in other areas such as Artesia whom reported that their project was completed satisfactorily with funds left over.

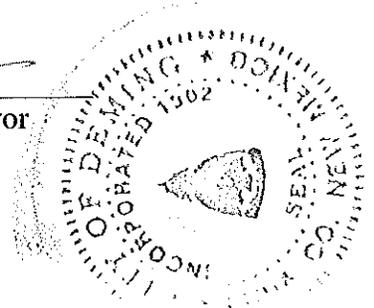
With no further business to conduct the workshop was adjourned at 4:12 p.m.

**The next Regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m.,
January 10th, 2011.**

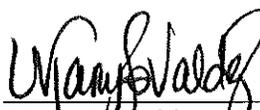
CITY OF DEMING, NEW MEXICO



Andres Z. Silva, Mayor



ATTEST:



Mary Jo Valdez, City Clerk

CITY COUNCIL MEETING MINUTES January 10th, 2011

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

Absent: David Sanchez, Councilor

Staff Richard F. McInturff, Administrator	Aaron Sera, Community Services Director
Present: Mary Jo Valdez, Deputy Clerk	Premal Patel, Planner
Edgar Davalos, Fire Chief	Richard Kocab, Assistant Treasurer
Wesley Hooper, Project Coordinator	Lawrence Brookey, Asst. Public Works Dir.
Jim Foy, City Attorney	

Mayor Silva led the pledge of allegiance and called the meeting to order at 6:00 p.m.

1. Consent Agenda

- A.** Minutes – City Council Workshop and Regular Meeting 12/13/10
- B.** Minutes – Tourism Development Committee 12/08/10
- C.** Minutes – P&Z Commission 12/20/10
- D.** Minutes – Airport Commission 12/21/10
 - a. Recommendation to decline any business that will create a junk yard look at the airport
 - b. Recommendation to contact the National Resources Soil Conservation Department to determine if they can assist with the cost of removing the mesquites and to apply if necessary
- E.** Minutes – Parks Commission 12/21/10
 - a. Recommendation to split the existing dog park for large and small dog designated areas
- F.** Minutes – Library Board 12/28/10

Mayor Pro Tem Shattuck motioned to pull item D. Airport Commission Minutes for clarification and to approve the rest of the consent agenda as presented, second by Councilor Enis; carried unanimously.

Mr. McInturff stated that the Airport Minutes reflects a misinterpretation under item a. which states to decline any business that will create a junk yard look at the airport. Mr. McInturff stated that staff received an inquiry from Project Adventure requesting the use of the airport for parts repair. Mr. McInturff recommended declining the request to use the Airport by Project Adventure.

Mr. McInturff stated that item b. under the Airport Minutes was a recommendation for staff to contact NRCS to determine if the City was eligible to receive assistance for the removal of mesquites. Mr. McInturff stated that the City is not eligible for the program; explaining that it is an agricultural program and suggested that Council decline the recommendation.

Mayor Pro Tem Shattuck motioned to change the motion made by the Airport Commission to decline the inquiry by Project Adventure and to decline the recommendation to contact NRSCD, second by Councilor Enis; carried unanimously.

2. Public Forum

3. Presentation of Certificate of Appreciation to Kris Leck

Mr. Sera stated that Mr. Leck had approached him stating that he wanted to contribute to the community and asked if he could be of assistance in any way. Mr. Sera stated that Mr. Leck's children play soccer and that they agreed he could provide maintenance at the soccer field. Mr. Sera stated that Mr. Leck reseeded the grass, set timers for watering, and performed other ground maintenance which ended approximately in November. Mayor Silva presented Mr. and Mrs. Leck and family with a certificate of appreciation and thanked them for their service to the community. Mr. Leck commented that Deming has been good to them and has been a place which has opened doors for their business.

4. City Section 3 Plan; Residential Anti-Displacement and Relocation Assistance Plan; Local Relocation Policy, and Community Development Block Grant Program Citizen Participation Plan

Mr. McInturff stated that the Section 3 Plan, Residential Anti-Displacement and Relocation Assistance Plan, Local Relocation Policy, and CDBG Program Citizen Participation Plan were annually adopted plans. Mr. McInturff stated that the Section 3 Plan is to offer preferences for anticipated local hiring of low to moderate income applicants. The plan is not a requirement, it is a goal. Mr. McInturff stated that contractors also submit their own Section 3 Plans. Mr. McInturff stated that the Anti-Displacement and Relocation Policies are companion policies which reflect the City's efforts to comply with the requirements in the event that families are needed to be relocated for a CDBG project to be completed. Mr. McInturff noted that the City has participated in CDBG projects for approximately 14 to 15 years and have not displaced any families to date. The City Participation Plan are guidelines to follow to encourage input from area residents.

Councilor Milo motioned to approve the City Section 3 Plan; Residential Anti-Displacement and Relocation Assistance Plan; Local Relocation Policy, and Community Development Block Grant Program Citizen Participation Plan, second by Mayor Pro Tem Shattuck, carried unanimously.

5. Out of State Travel Request by Michael Carillo to Attend a Meeting Concerning the Gang Task Force in Palm Springs, CA on January 19 through 20, 2011

Chief Carillo stated that he is the Director for the NM Gang Task Force and is requesting permission to travel out of state to Palm Springs, CA on January 19 through 20, 2011 in efforts to present a memorandum of understating, which has been approved by the State of NM, to the Attorney General of California, which proposes that border states network their gang intelligence systems. Chief Carillo stressed the importance of having a network since major gangs are influencing NM. Mayor Silva stated that the network was an excellent plan to allow agencies to share information. Chief Carillo stated that the system is law enforcement sensitive and that users must be CFR28 certified before they can access the system. Chief Carillo stated that the trip would be fully funded through the NM Gang Task Force.

Mayor Pro Tem Shattuck motioned to approve the out of state travel request by Chief Michael Carillo to attend a meeting concerning the gang task force in Palm Springs, CA on January 19 through 20, 2011, second by Councilor Enis; carried unanimously.

6. Out of State Travel Request by Michael Carillo to Attend a REMI Training in Tulsa, OK on February 14 through 17, 2011

Chief Carillo stated that he has been requested to attend a conference by Rural Executive Management Institute (REMI) to provide training to Oklahoma attendees. Chief Carillo stated that he has declined to attend in the past in efforts to limit his amount of travel and away from the station and is requesting to attend the REMI training in Tulsa, Oklahoma on February 14 through 17, 2011. Chief Carillo stated that the expenses will be paid through the National Center for Rural Law Enforcement. Chief Carillo also stated that he has nominated Under Sheriff Carter, Captain Gigante and Lt. Chadborn as participants for future trainings.

Councilor Enis motioned to approve the out of state travel request by Michael Carillo to attend a REMI training in Tulsa, OK on February 14 through 17, 2011, second by Councilor Milo; carried unanimously.

7. Out of State Travel Request by Ernest Jasso to Attend the National Animal Control Association Training Academy in Phoenix, AZ on February 7 through 11, 2011

Chief Carillo requested Council's approval to allow Mr. Ernest Jasso to attend the National Animal Control Association Training Academy in Phoenix, Arizona from February 7 through 11, 2011. Chief Carillo explained that a state training is offered in November; however the department was only able to send Ms. Darrow in November to leave Mr. Jasso available for duty. Chief Carillo stated that Mr. Jasso would become ACO1 certified after this course and in November of 2011 after completing the in-state course he would also become ACO2 certified this year.

Mayor Pro Tem Shattuck motioned to approve the out of state travel request by Ernest Jasso to attend the National Animal Control Association Training Academy in Phoenix, AZ on February 7 through 11, 2011, second by Councilor Milo; carried unanimously.

8. Mayor's Appointment of Public Works Director

Mayor Silva asked Council for their approval of his recommendation to appoint Mr. Lawrence Brookey as Public Works Director; adding that he was appointed the Assistant Public Works Director in 2009 as a transition plan in anticipation of the retirement of Louis Jenkins.

Mr. McInturff stated that Mr. Brookey has preformed his duties in an exemplary manner and recommended the approval of the Mayor's appointment.

Councilor Enis motioned to approve the Mayor's appointment of Mr. Lawrence Brookey as the Public Works Director and to execute the standard employment agreement, second by Mayor Pro Tem Shattuck; carried unanimously.

9. Ratification of Administrative Regulation DM09-18 Pertaining to Accident and Injury Review

Mr. McInturff stated that staff is asking for an amendment to the administrative regulation which will clarify the penalty assessed for accidents in the event that an officer is to be assessed a penalty. Mr. McInturff state that the only change is on page two approximately half-way down the page. Mr. McInturff explained that the Police Department bargaining unit agreed to give up their accident free day in exchange for a raise; in doing so, Mr. McInturff further explained that they are usually assessed a day without pay in the event that they are found guilty of an accident. Mr. McInturff stated that in efforts to not have their pay affected, if they are found guilty by the accident review board, they have agreed instead to give up 8 hours of annual leave for their day without pay in the event that they are penalized for an accident.

Mayor Pro Tem Shattuck motioned to approve the ratification of Administrative Regulation DM09-18 pertaining to accident and injury review, second by Councilor Milo; carried unanimously.

10. Resolution: To Determine what Constitutes Reasonable Notice of Public Meetings as Required by the Open Meetings Act, Section 10-15-1 (D)

Mayor Silva read the resolution aloud.

Mr. McInturff stated that the resolution pertaining to the Open Meetings Act is an annually approved resolution to determine when City Council meetings will be held as well as the procedures of public notices.

Councilor Milo motioned to approve the resolution to determine what constitutes reasonable notice of public meetings as required by the Open Meetings Act, Section 10-15-1 (D), second by Councilor Enis; carried unanimously.

RESOLUTION NO. 11-01

An annual resolution determining what constitutes reasonable notice of public meetings held by the Governing Body of The City of Deming per Section 10-15-1 (D) of the Open Meetings Act

WHEREAS, the City of Deming met in Regular session at Deming, New Mexico on January 10th, 2011 at 6:00 p.m. as per law; and

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

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

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

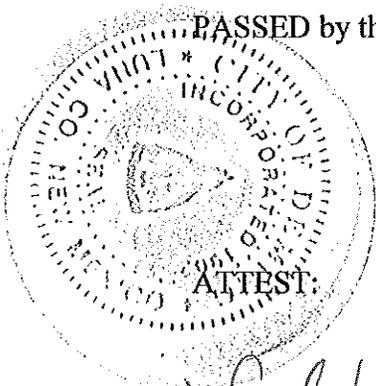
NOW, THEREFORE, BE IT RESOLVED by the City of Deming that:

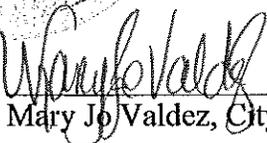
1. All regular meetings shall be held at the John Strand Municipal Building at 6:00 p.m. or as indicated on the meeting notice.
2. Regular meeting shall be held each month on the second Monday. A proposed agenda will be available the Friday before the meeting from the Municipal Offices, 309 South Gold, Deming, New Mexico. Notice of any other regular meetings will be given ten (10) days in advance of the meeting date.
3. Special meetings may be called by the Mayor or a majority of the Council members upon three (3) days notice.
4. Emergency meetings will be called only under circumstances, which demand immediate action to protect the health, safety and property of citizens. The City of Deming will avoid emergency meetings whenever possible. Emergency meetings may be called by the Mayor or a majority of the Council members upon twenty-four (24) hours notice, unless threat of personal injury or property damage requires less notice.
5. For the purpose of regular meetings described in paragraph 2 of this resolution, notice requirements are met if notice of the date, time, place, and

general subject matter to be discussed is placed in newspapers of general circulation in the state.

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

PASSED by the City Council this 10th day of January 2011.




Mary Jo Valdez, City Clerk


Mayor Andres Z. Silva

11. Resolution: Adopting Regulations Regarding the Procurement Process

Mr. McInturff stated that the resolution regarding the procurement process is also annually approved to adopt sections 13-1-28 to 13-1-199 NMSA 1978 as amended and Sections 13-4-1 to 13-4-42 NMSA 1978 as amended.

Councilor Enis motioned to approve the resolution regarding the procurement process pursuant to sections 13-1-28 to 13-1-199 NMSA 1978 as amended and Sections 13-4-1 to 13-4-42 NMSA 1978 as amended, second by Mayor Pro Tem Shattuck; carried unanimously.

12. Resolution: Adopting Regulations Governing the Per Diem and Mileage Act Pursuant to NMAC 2.42.2

Mr. McInturff stated that the resolution regarding per diem is also an annually approved resolution to adopt NMAC 2.42.2 in accordance with 10-8-1 through 10-8-8 NMSA 1978 and shall include subsequent amendments.

Councilor Milo motioned to approve the resolution Adopting Regulations Governing the Per Diem and Mileage Act Pursuant to NMAC 2.42.2, second by Mayor Pro Tem Shattuck; carried unanimously.

13. Bid #11-11 Sewer Main Installation

Mr. Brookey stated that the bid was initiated to complete the sewer pipe and manholes along Solana Road. Mr. Brookey states that he has contacted Shiya's references and found that they seem to be reputable. Mr. Brookey stated that the specifications identified that and agreement would not be signed without the submission of insurance, and performance bonds. Mr. Brookey asked for the authorization to award the second lowest bidder, Deming Excavation, the bid if an agreement is not reached with the lowest bidder, Shiya-Strephans Contracting Co.

Mayor Pro Tem Shattuck motioned to approve the bid award recommendation to Shiya-Strephans Contracting Co. in the amount of \$245,650.00 and if a contract is not executed within 21 days to award the bid to the second lowest bidder, Deming Excavating in the amount of \$457,210.00, second by Councilor Milo; carried unanimously.

14. 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 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, second by Mayor Pro Tem Shattuck;

ROLL CALL/VOTE

Councilor Enis	Aye
Councilor Milo	Aye
Mayor Pro Tem Shattuck	Aye

Motion carried.

15. Open Session: Motions if any

Councilor Milo motioned to go into open session, second by Councilor Enis;

ROLL CALL/VOTE

Mayor Pro Tem Shattuck	Aye
Councilor Enis	Aye
Councilor Milo	Aye

Motion carried.

Resolution # 11-02

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

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

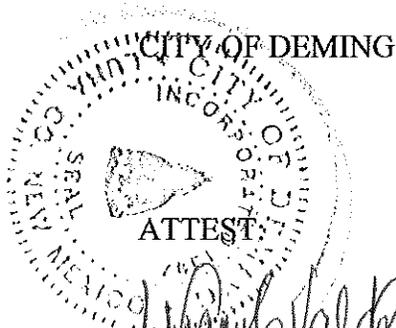
WHEREAS, the purpose of the Procurement Code are to provide for the fair and equitable treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity; and

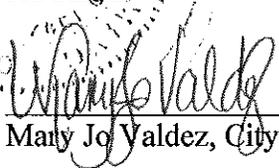
WHEREAS, the governing body may adopt regulations through resolution or ordinance to effect the powers and duties granted the municipality by state law;

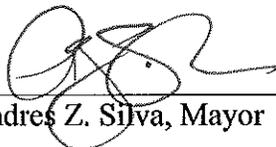
NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE City of Deming that the regulations cited above are the purchasing processes to be utilized by all officers and employees of the municipality through the Central Purchasing office in the procurement of tangible personal property, services and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

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

APPROVED AND ADOPTED by the governing body at its meeting of January 10th, 2011.




Mary Jo Valdez, City Clerk


Andres Z. Silva, Mayor

RESOLUTION NO. 11-03

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

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

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

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

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

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

PASSED, APPROVED and ADOPTED this 10th day of January, 2011



ATTEST:

Mayor Andres Z. Silva

Mary Jo Valdez, City Clerk

CITY SECTION 3 PLAN

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

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

Therefore, the City of Deming shall:

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

Anticipated City Hiring 2011

	Planned		Actual	
Job Classification	# of Positions to be Filled	# of Positions to be Filled by Lower Income City	# Positions Filled	# of Positions Filled by Lower Income City
Laborer	4	4		
Skilled Craft	5	5		
Clerical	8	6		

2. Contracting
 - (a) The City will compile a list of businesses, suppliers and contractors located in the City.

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

3. Training

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

4. CDBG Contracts

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

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

the direction of the applicant for, or recipient of, Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135, and will not let any subcontract unless the subcontractor has first provided it with the requirements of these regulations.

- (e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department, issued there under prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

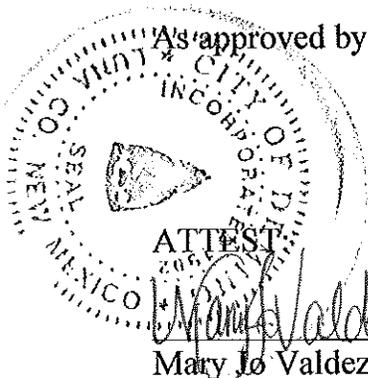
The City shall require each contractor to prepare a written Section 3 Plan as a part of their bids on all jobs exceeding \$100,000. All Section 3 Plans shall be reviewed and approved by the City's Equal Opportunity Section 3 Compliance Officer and maintained in said office for monitoring by the State.

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

LOWER INCOME CLARIFICATION

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

As approved by City Council, January 10, 2011.



Mary Jo Valdez, City Clerk

CITY OF DEMING


Andrés Z. Silva, Mayor

HUD Section 8 Median Family Income Guidelines – Luna County

Luna County, New Mexico

FY 2010 Income Limit Area	<u>Median Income</u>	FY 2010 Income Limit Category								
		1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	
		\$15,750	\$18,000	\$20,250	\$22,450	\$24,250	\$26,050	\$27,850	\$29,650	
		<u>Very Low (50%) Income Limits</u>								
		\$9,450	\$10,800	\$12,150	\$13,450	\$14,550	\$15,650	\$16,700	\$17,800	
		<u>Extremely Low (30%) Income Limits</u>								
Luna County	\$32,500	\$25,150	\$28,750	\$32,350	\$35,900	\$38,800	\$41,650	\$44,550	\$47,400	
		<u>Low (80%) Income Limits</u>								

RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN & CERTIFICATION

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

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

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

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

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

PLAN AND CERTIFICATION

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

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

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

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

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

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

DISPLACEMENTS STRATEGY

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

B. Actions to Assist Displaced Persons to Remain in Their Present Neighborhoods:

1. Provide lower-income housing in the neighborhood through HUD housing programs; purchase units as is; rehabilitate vacant units; or construct housing units.
2. Give priority in assisted housing units in the neighborhood to area residents facing displacement.
3. Target Section 8 existing programs and certificates to households being displaced, and recruit area landlords to participate in the program.
4. Provide counseling and referral services to assist displaced find alternate housing in the neighborhood.
5. Work with area landlords and real estate brokers to locate vacancies of households facing displacement.

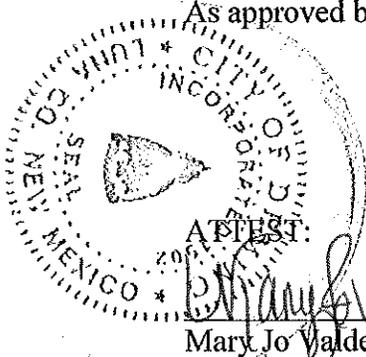
C. Actions to Otherwise Mitigate Adverse Effects of Displacement:

1. Use of public funds, such as CDBG, to pay moving costs and provide relocation payments or, to extent permissible by local or state law require private developers to provide compensation to persons displaced by development activities.
2. Give displaced priority in obtaining subsidized housing.
3. Provide counseling and referral service to assist displaced to locate elsewhere in the community.

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

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

As approved by City Council, January 10, 2011



Mary Jo Valdez, City Clerk

CITY OF DEMING

Andres Z. Silva, Mayor

LOCAL RELOCATION POLICY

WHEREAS, The City of Deming, New Mexico hereinafter referred to as the locality, is undertaking a Community Development Program under the provisions of the Housing and Community Development Act of 1974 (Public Law 93-383) and amendments thereto;

WHEREAS, The Housing and Community Development act of 1974 requires compliance with the relocation requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970, hereinafter referred to as the Uniform Act, and implementing regulations issued by the Department of Housing and Urban Development (49 CFR Part 24) when the acquisition of real property occurs; and

WHEREAS, The locality wishes to provide a local policy covering all probable types of relocation, which may be necessary in accomplishing CDBG, related activities, the following policy is hereby adopted:

I. Permanent Relocation

All persons, families, or businesses permanently displaced as a result of CDBG funded activities shall be provided with relocation assistance and compensation as authorized by the Uniform Act. Procedures and forms shall be in accordance with the Federal Regulations at 49 CFR Par 29.

II. Temporary Relocation – Owner Occupied Units

Program activities shall be planned and carried out in a manner that minimizes hardships to occupants of houses being rehabilitated in accordance with the CDBG program.

When a homeowner requests and receives a grant or loan for the purpose of rehabilitating his home, he becomes eligible for temporary relocation assistance providing the nature of the rehabilitation is such that the occupants could not continue to live in the dwelling during rehabilitation as determined by the contractor and the Housing Rehabilitation Specialist and approved by the Planning and Evaluation Administrator.

Arrangements will be made to provide temporary relocation assistance in accordance with the needs of those being temporarily displaced, including social services, counseling, guidance, assistance, and referrals.

Costs associated with a temporary move may be included in the rehab grant if no personal resources are available to the occupant of the dwelling to be rehabilitated. These costs normally may not exceed \$1,000. Hardship

situations will be considered on an individual basis. Costs which may be charged to the rehabilitation contract include:

- Actual reasonable moving costs to the temporary relocation.
- Actual reasonable cost of renting the temporary unit. (Normally not to exceed 45 days.)
- Actual reasonable cost for storage of furniture that cannot be housed in the temporary unit in the event that the family can find shelter for themselves but not their belongings.
- Actual reasonable cost of moving from the temporary location back to the rehabilitated dwelling.

Eligible recipients shall not be relocated until the contractor is prepared to begin rehabilitation work and shall be returned to their homes immediately upon final inspection of their home. All reasonable costs must be documented by dated invoices from the parties receiving the remuneration. Procedures and forms shall be in accordance with the HUD Relocation Handbook 1376.1, as revised.

III. Tenant Assistance Policy

No tenant shall be considered permanently displaced if the tenant can return to his or her unit after rehabilitation at a cost not to exceed 30% of his or her family income.

No person displaced by rental rehabilitation activities will be discriminated against. All displaced persons shall be equally provided information, counseling, referrals, relocation services and relocation payments, if eligible.

No person will be provided with information and counseling to familiarize tenants in the projects to be rehabilitated with (1) opportunities to select replacement dwellings from a full range of neighborhoods within the total housing market; (2) individual rights under the Fair Housing Law; and (3) how to search for suitable replacement housing.

IV. Grievance Procedure

Grounds

You have the right to appeal any action of the City of Deming on the following grounds:

- Failure to properly determine your eligibility for, or the amount of, a relocation or other payment due you under the Uniform Act;
- Refusal to waive the time limit for filing a claim or the one-year purchase and occupancy requirement;
- Failure to properly inspect the replacement dwelling;
- Failure to comply with a requirement providing a Comparable Replacement Dwelling Prior to Displacement.

Your acceptance of the amount offered you by the City of Deming does not limit your right to appeal the City of Deming determination and seek a larger payment.

Methods and Time Limits for Initiating an Appeal

If your appeal concerns your eligibility for, or the amount of, a payment, you must file your appeal within 6 months after the City of Deming notifies you of its determination on your claim.

If your appeal concerns an alleged failure to provide appropriate housing referrals or to properly inspect the replacement dwelling or Availability of Comparable Replacement Dwellings Prior to Displacement, you must file your appeal within 6 months after you have been displaced from your home or apartment.

If your appeal concerns an alleged failure to comply with Notice of Right to Continue in Occupancy, you must file your appeal no later than 6 months after (a) your permanent move from your home or apartment; or (b) the end of the four-year occupancy period, whichever comes first.

If your appeal concerns the City of Deming refusal to waive the one-year purchase and occupancy requirement, your appeal must be filed within 30 days after the refusal.

You may make a request to the City of Deming, either orally or in writing, to make oral appeal. The City of Deming will provide you with the opportunity for an oral presentation within 15 days of your request. If the City of Deming does not grant your grievance, you will be so notified and informed you have the right to make a written appeal. However, the request for an oral presentation does not entitle you to any postponement of displacement.

You may also file a written request for review. Include any statement of fact or other material which you feel has a bearing on your appeal. If more time is needed to gather and prepare additional material for review, you may be granted additional time so you have at least 30 days from the date of receiving notification of the decision concerning your appeal. If you need assistance in preparing your material, the City of

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CITIZEN PARTICIPATION PLAN

Introduction

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

Objective A

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

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

Objective B

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

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

Objective E

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

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

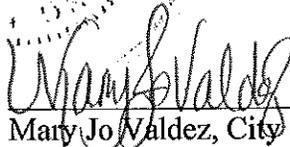
Objective F

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

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

As approved by City Council, January 10, 2011




Mary Jo Valdez, City Clerk

CITY OF DEMING, NEW MEXICO



Andres Z. Silva, Mayor

Mayor Silva noted for the record that items discussed were related to 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 and that no motions were made during closed session.

Mayor Pro Tem Shattuck motioned to authorize Mr. McInturff the authority to negotiate the purchase at appraised value or less the Decker Property, approximately 160 acres at the Southwest corner of the Peru Mill area and to authorize the Mayor to execute all necessary closing documents, second by Councilor Milo; carried unanimously.

Mayor Pro Tem Shattuck motioned to authorize administration to create a Request for Proposal for a piece of property in Section 35, Township 23 S R5W in the N ½ Section 320 acres for sale at appraised value or more, second by Councilor Milo; carried unanimously.

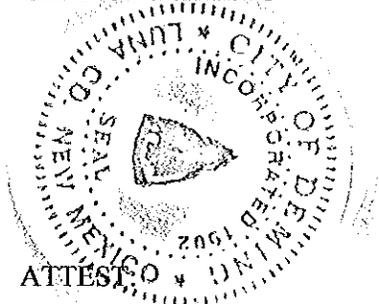
Councilor Enis motioned to allow management the authority to negotiate the purchase the Calderon (Martinez) and Jackson properties East of Tulip Landfill at the appraised value or less, second by Mayor Tem Shattuck; carried unanimously.

16. Adjourn Meeting

With no further business to conduct, Mayor Pro Tem Shattuck motioned to adjourn the meeting at 7:31 p.m., second by Councilor Milo; carried unanimously.

There is a Special Council Meeting Scheduled for January 21, 2011 at 9:30 a.m.
The next Regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., February 14th, 2011.

CITY OF DEMING



Andres Z. Silva, Mayor

Mary Jo Valdez, City Clerk