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CITY COUNCIL MEETING

March 14th, 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 02/14/11
 - B. Minutes – Special City Council Meeting 03/04/11
 - C. Minutes – Tourism Development Committee 02/09/11
 - a. Recommendation to renew a contract with Fun & Games
 - D. Minutes - Airport Commission 02/15/11
 - a. Recommendation to purchase new gates for the airport
 - b. Recommendation to solicit RFPs for mesquite harvesting
 - E. Minutes - Parks Commission 02/15/11
 - a. Recommendation to change the Parks Commission meeting time from 5:00 to 5:30 p.m.
 - F. Minutes – P&Z 02/28/11 - Cancelled
 - G. Minutes – Marshall Memorial Library 02/22/11
2. Public Forum
3. Presentation of Certificates of Appreciation for Deming Police Department Personnel
4. Mayor's Appointment to the Tourism Development Committee
5. Request to Waive Rental Fees for the Use of the Special Events Center by Luna County Public Health on April 2, 2011 for their Annual Community Health Fair
6. Authorization Request by Deming Garden to Plant a Community Farm
7. Public Hearing: To Consider an Ordinance Authorizing the Execution and Delivery of a Water Project Fund Loan (\$60,000) /Grant (\$240,000) Agreement by and between the NM Water Trust Board and the New Mexico Finance Authority and the City of Deming
8. Bids
 - a. Bid #11-13 Recycling Facility Metal Building
9. 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
10. Open Session: Motions if any
11. Adjourn Meeting

The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., April 11th, 2011.

CITY COUNCIL WORKSHOP

MINUTES

March 14, 2011

Council **Andres Z. Silva, Mayor** **Linda Enis, Councilor**

Present:

Absent: **Joe "Butter" Milo, Councilor** **William Shattuck, Mayor Pro Tem**
David Sanchez, Councilor

Staff **Richard McInturff, City Administrator** **Aaron Sera, Community Svcs. Director**

Present: **MaryMackey, Admin. Secretary** **Edgar Davalos, Fire Chief**
Richard Kocab, Assistant Treasurer **Michael Carillo, Chief of Police**
Lawrence Brookey, Public Works Director

The Mayor and the City Council of Deming, New Mexico held a workshop on March 14th, 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.

Mayor Silva noted a correction to the minutes of the March 4, 2011 Special City Council Meeting, stating that he was present and not absent as stated in the minutes.

Mr. McInturff stated that the TDC Committee was recommending renewing their contract with Fun n Games for brochure distribution, and that there were no issues with the request.

Mr. McInturff stated that the Airport Commission had requested purchase of new gates, and that funding should come through the Capital Improvement Process for evaluation. Mr. Sera stated that the error codes are being evaluated. Mr. Sera stated that in conversation with other airports, the gates currently at the airport are the best.

Mr. McInturff stated that the airport Commission has requested the City go out to RFP for mesquite eradication. Mr. Sera stated that the commissioners are requesting the mesquites be taken down on the south side of the airport. Mr. Sera stated that the City is in compliance with FAA requirements regarding the Visual Runway Protection Zone. Mr. Sera stated that the City will be conducting some minor mesquite clearances at the intersection of the taxiways, but that not all the mesquites need to be eradicated.

Mr. McInturff stated that Parks is requesting a change in meeting time due to employment conflicts of a commissioner.

Mr. McInturff stated that a request to waive rental fees for the use of the Special Events Center have been made by Luna County Public Health for their annual Community Health Fair.

Mr. McInturff stated that the Dr. Gordon is requesting to plant a Community Farm this year. Mr. McInturff stated that the garden has been using drinking water for the project and recommends using agricultural water be used, as there will need to be some modifications to the well to make the irrigation system work. Mr. McInturff stated that staff supports the efforts for this project.

Mr. McInturff stated that there will be a public hearing regarding authorizing the execution and delivery of a Water Project Fund Loan similar to the one accepted the prior month but with the difference that \$240,000 will be in grant, and \$60,000 in loan, with the loan being at zero percent interest and no pre-payment penalty. Mr. McInturff stated that the total project cost is \$330,000 and the requirement is that the City matches \$30,000.

Mayor Silva clarified that the City is borrowing \$60,000, the grant will be for \$240,000, and the City is putting in \$30,000. Mr. McInturff affirmed. Mr. McInturff reviewed Section 11 stating that he recommends the authorized persons to execute the loan be Mayor Silva, Lawrence Brookey, Aaron Sera and himself be listed as authorized signators for the project. Mr. McInturff stated that once the ordinance is adopted it cannot be repealed.

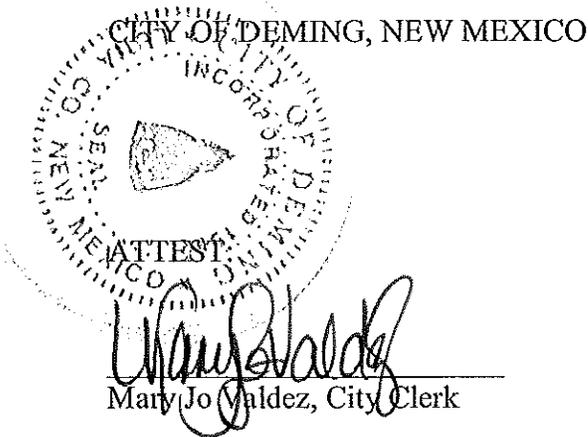
Mr. McInturff advised that there may be an issue with the location of the Sports Complex. Mr. Sera stated that the land may need release from FAA, who require environmental be done prior to releasing the land for use. Mr. Sera stated that there may still be an issue with lighting since there was a previous complaint from a pilot, which is an issue that will need to be looked at.

Mr. McInturff stated that Mr. Brookey would present the bid information to City Council.

Mr. McInturff stated that there would be a brief closed session.

With no further business to conduct the workshop was adjourned at 4:30 p.m.

The next Regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., April 11th, 2011.



Andres Z. Silva, Mayor

CITY COUNCIL MEETING MINUTES March 14th, 2011

Council William C. Shattuck, Mayor Pro Tem Linda Enis, Councilor
Present: Joe “Butter” Milo, Councilor David Sanchez, Councilor

Absent: Andres Z. Silva, Mayor

Staff Richard F. McInturff, Administrator Aaron Sera, Community Services Director
Present: Mary Mackey, Admin. Secretary Edgar Davalos, Fire Chief
Richard Kocab, Assistant Treasurer Lawrence Brookey, Public Works Director
Michael Carillo, Chief of Police

Jim Foy, City Attorney

Mayor Pro Tem Shattuck 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 02/14/11
- B. Minutes – Special City Council Meeting 03/04/11
- C. Minutes – Tourism Development Committee 02/09/11
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- D. Minutes - Airport Commission 02/15/11
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 - b. Recommendation to solicit RFP’s for mesquite harvesting
- E. Minutes - Parks Commission 02/15/11
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- G. Minutes – Marshall Memorial Library 02/22/11

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

Mr. Sera stated that there has been a recommendation by the Airport Commission to purchase new gates because there have been ongoing problems with the ones currently in place. Mr. Sera stated that the issue is being resolved, and that after extensive research the current gates happen to be the best gates one can buy for the area, and that it would not be cost effective to purchase new ones.

Mayor pro tem Shattuck asked if Mr. Sera's recommendation was that the City not purchase new gates. Mr. Sera affirmed. Councilor Milo asked if the gates were currently working. Mr. Sera stated that the south side gate is currently having issues but that the problem has been identified and that parts that should fix the problem are on order.

Councilor Enis stated that the second issue to be discussed is the eradication of mesquites which was recommended by the Airport Commission. Mr. Sera stated the Airport commission recommended to solicit RFP’s to eradicate mesquites at the airport. Mr. Sera stated that the airport is in compliance with FAA regulations in the Runway Protection Zone. Mr. Sera said that the mesquites on the south side of

the airport are the ones in question by the Commission, but they are not required to be removed. However, the City will take the extra step and do some clearing at the intersections of the taxiways. Mr. Sera stated that removing all the mesquites would create dust devils and blowing dirt, and recommends not removing mesquites in that area.

Councilor Enis motioned to accept the Airport Commission minutes with the following changes: 1) the City will not be purchasing new gates, since the problem has been identified and is being taken care of; 2) it is not recommended that mesquite eradication be done, but that trimming will be done to enhance the visibility at the intersections but not to eradicate, second by Councilor Sanchez; carried unanimously.

2. Public Forum

3. Presentation of Certificates of Appreciation for Deming Police Department Personnel

Chief Carrillo presented Certificates of Appreciation to recognize Victoria Holloran, Denise Eaglestar, Debbie Anderson, and Officer Jeremy Flint of the Police Department for their outstanding service to the community.

4. Mayor's Appointment to the Tourism Development Committee

Councilor Enis motioned to approve the Mayor's appointment of DeLloyd Haynes to the Tourism Development Committee, second by Councilor Sanchez; carried unanimously.

5. Request to Waive Rental Fees for the Use of the Special Events Center by Luna County Public Health on April 2, 2011 for their Annual Community Health Fair

Ms. Elizabeth Burr, Community Health Specialist for Department of Health, stated that health related specialists come together to provide health screenings and information for the community, and is requesting a waiver of fees for the use of the facility to host the annual event.

Councilor Milo motioned to waive the fees for the use of the Special Events Center for the event, second by Councilor Sanchez; carried unanimously.

6. Authorization Request by Deming Garden to Plant a Community Farm

Mr. Gordon requested permission to continue with the Community Farm again this year. He stated that the Soil Conservation Department is providing them free supplies to install a drip system, which includes the design. Mr. Gordon stated that the food grown in the garden will be donated to Helping Hands for distribution.

Mr. McInturff stated that the City will look in to modifying the well to ensure it is compatible with the drip system. Mr. Gordon requested to continue with the project and convert over once the well is completed. Mr. McInturff agreed that it would be best to do so. Mr. Gordon handed out flyers requesting volunteers for the project.

Councilor Enis motioned to approve the request for a Community Garden and to use City water until the City is able to convert over to the well, second by Councilor Sanchez; carried unanimously.

7. Public Hearing: To Consider an Ordinance Authorizing the Execution and Delivery of a Water Project Fund Loan (\$60,000) /Grant (\$240,000) Agreement by and between the NM Water Trust Board and the New Mexico Finance Authority and the City of Deming

Mayor Pro Tem Shattuck held a public hearing to consider an ordinance authorizing the execution and delivery of a water project fund loan agreement between the NM Water Trust Board, the New Mexico Finance Authority, and the City of Deming.

Mr. McInturff stated that the ordinance before them is similar to the two items that were passed last month for the fire station, and that the paperwork is pretty much the same. Mr. McInturff stated that this project is a total of \$330,000, of which \$240,000 is in grants, \$60,000 is in loan, and

\$30,000 is in match funds. The project is to provide treated effluent water through a transmission line to the sports complex from the wastewater treatment plant. Mr. McInturff stated that concerning the loan on pledge revenues, these are general revenues from the water and wastewater plant, so \$60,000 are going to be pledged to the New Mexico Finance Authority. Mr. McInturff stated that under section 11, page 8 under authorized officers, he is requesting to have the Mayor Silva, Lawrence Brookey, Aaron Sera, and himself named in the motion as persons authorized as signatories for the project.

Mr. McInturff stated that under section 13, the ordinance is irrefutable; once it is done it cannot be taken back. Mr. McInturff referred to the loan and grant agreement, page 2, under "whereas the borrowers/grantee is willing to pledge the pledge revenues to the payment of the loan", he has already mentioned that those would be general revenues received in water and wastewater, but that there would be no intercept agreement as was the case they had last month. Mr. McInturff stated these funds are not bonded, they are just general revolving loan fund from the New Mexico Finance Authority. Mr. McInturff stated that the grant is awarded through the Water Trust Board, but that the New Mexico Finance Authority manages the funds.

Mr. McInturff pointed out on page 8 that the agreement is an irrevocable enactment. Mr. McInturff stated that on page 10, section "s", it also requires the City to maintain a separate project account. Mr. McInturff stated that the agreement term is for 20 years, and the City is allowed to prepay the loan and expects to pay the loan within a year. Mr. McInturff stated that the match was a requirement of the loan.

Mr. McInturff pointed out page 16, section 6.4, which requires budgeting for the payments, which will be done. Mr. McInturff stated that a handout was given out in the packets that list the amortization schedule for the loan, as well as a term sheet which shows the loan at 0%. Mr. McInturff stated there was a quarter percent administrative fee that covers publications and notices pertaining to this ordinance.

Mr. McInturff stated that it is management's recommendation to go ahead and approve this ordinance go to public comment.

Mayor pro tem Shattuck asked if there were any questions for staff. Councilor Milo asked if the project includes the filtration of the water or just the line itself. Mr. McInturff stated that the water is treated as it leaves the wastewater plant, and that there will be some filtration that will be done before it goes into the irrigation system. Mr. McInturff stated that there will be some sort of a back-wash mechanism which is the same that is used on the farm fields to grow crops. Councilor Milo asked how long the line will be. Mr. Brookey stated that it would be less than 1 mile.

Mr. McInturff reported that the National Guard unit will be grubbing and grading at the Sports Complex site. Mr. McInturff stated that more funding is being looked into, and that at this time there is a grant request to fund the construction of the concession stand.

Mr. Sera stated that Mr. Hooper has been working with staff from the Congressional District, who will help search for grant opportunities for these types of projects. Mayor pro tem Shattuck opened a public hearing for public comments. Mayor pro tem Shattuck closed the public comments and asked Council if they were prepared to make a motion.

Councilor Enis motioned to approve the ordinance authorizing execution and delivery of a Water Project Fund loan in the amount of \$60,000, a grant of \$240,000, agreement signed between the NM water trust Board and the New Mexico finance authority, and the City of Deming which authorizes the Mayor, Lawrence Brookey, Rick McInturff and Aaron Sera to be the signatories for this project, second by Councilor Milo;

ROLL CALL/VOTE

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

Motion carried.

8. **Bids**

a. Bid #11-13 Recycling Facility Metal Building

Mr. Brookey stated that Bid #11-13 is to procure a 3,000 sq. foot pre-engineered metal building, complete with doors that will be erected at the transfer station for a recycling facility. Mr. Brookey stated that the procurement is part of a recycling grant received from New Mexico Recycling Coalition that will pay for the purchase of the building. Mr. Brookey stated that two bids were received, of which the low bidder was Prime Steel Buildings at \$28,195. Mr. Brookey stated that the amount includes delivery, and is staff's recommendation to accept the lowest bid.

Councilor Milo motioned to accept Prime Steel Building as the lowest bidder, in the amount of \$28,190 for a 3,000 sq. foot metal building, bid number 11-13, second by Councilor Sanchez; carried unanimously.

9. **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 Sanchez	Aye
Councilor Milo	Aye
Mayor Pro Tem Shattuck	Aye

Motion carried.

10. **Open Session:** Motions if any

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

ROLL CALL/VOTE

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

Motion carried.

Mayor Pro Tem Shattuck 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.

**CITY OF DEMING
ORDINANCE NO. 1209**

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "LENDERS/GRANTORS") AND THE CITY OF DEMING (THE "BORROWER/GRANTEE"), IN THE AMOUNT OF THREE HUNDRED THOUSAND DOLLARS (\$300,000), EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF THE PLANNING, DESIGN AND CONSTRUCTION OF THE SYSTEM THAT WILL SUPPLY THE TREATED EFFLUENT WATER TO THE BORROWER/GRANTEE'S SPORTS COMPLEX FOR IRRIGATION, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in this Ordinance unless the context requires otherwise.

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing incorporated municipality under the general laws of the State of New Mexico and more specifically, Section 3-2-1 et seq., NMSA 1978; and

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

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

WHEREAS, the Loan/Grant Agreement shall not constitute a general obligation of the

Borrower/Grantee, the Water Trust Board or the NMFA or a debt or pledge of the faith and credit of the Borrower/Grantee, the Water Trust Board, the NMFA or the State; and

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

WHEREAS, the Governing Body hereby determines that (i) the Additional Funding Amount is now available to the Borrower/Grantee to complete the Project; or (ii) that the Governing Body will take such steps as are necessary to obtain the Additional Funding Amount within six (6) months after the Closing Date; and

WHEREAS, the Borrower/Grantee acknowledges that, in the event that it is unable to provide the Additional Funding Amount within six (6) months after the Closing Date, the Loan/Grant Agreement shall, at the option of the Water Trust Board and the NMFA, terminate and be of no further force or effect; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Loan/Grant Amount for the purposes described, and according to the restrictions set forth, in the Loan/Grant Agreement; (ii) the availability of other moneys necessary and sufficient, together with the Loan/Grant Amount, to complete the Project; and (iii) the authorization, execution and delivery of the Loan/Grant Agreement which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

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

Section 1. Definitions. As used in this Ordinance, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

“Act” means the Water Project Finance Act, Sections 72-4A-1 through 72-4A-10, NMSA 1978, as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which, in combination with the Loan/Grant Amount, is sufficient to complete the Project or to provide matching funds needed to complete the Project. The Additional Funding Amount is thirty thousand dollars (\$30,000).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

“Authorized Officers” means the Mayor, Administrator/Treasurer, Public Works Director and City Clerk of the Borrower/Grantee.

“Board Rules” means Section 19.25.10 NMAC, as supplemented and amended.

“Borrower/Grantee” means the City of Deming in Luna County, New Mexico.

“Closing Date” means the date of execution, delivery and funding of the Loan/Grant Agreement.

“Completion Date” means the date of final payment of the cost of the Project.

“Expense Account” means the account established pursuant to this Ordinance and held by the NMFA to pay the Expenses incurred by the Lenders/Grantors in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of originating and administering the Loan/Grant, including legal fees to the extent allowed by the Act, the Board Rules and applicable policies of the Water Trust Board.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Borrower/Grantee consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the Lenders/Grantors establishing accounting principles applicable to the Borrower/Grantee.

“Governing Body” means the City Council of the Borrower/Grantee, or any future successor governing body of the Borrower/Grantee.

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is two hundred forty thousand dollars (\$240,000).

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Ordinance and not solely to the particular section or paragraph of this Ordinance in which such word is used.

“Lenders/Grantors” means the Water Trust Board and the NMFA.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and is sixty thousand dollars (\$60,000).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the

Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project.

“Loan/Grant Agreement” means the Water Project Fund Loan/Grant Agreement entered into by and between the Borrower/Grantee, the Water Trust Board and the NMFA as authorized by this Ordinance.

“NMAC” means the New Mexico Administrative Code.

“NMFA” means the New Mexico Finance Authority.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

“Ordinance” means this Ordinance as supplemented or amended from time to time.

“Pledged Revenues” means the revenues of the Borrower/Grantee pledged to the payment of the Loan Amount and Administrative Fees pursuant to this Ordinance and the Loan/Grant Agreement and described in the Term Sheet.

“Project” means the project described in the Term Sheet.

“Project Account” means the auditable book account in the name of the Borrower/Grantee established pursuant to this Ordinance and held by the NMFA for deposit of the Loan/Grant Amount, as shown in the Term Sheet, for disbursement to the Borrower/Grantee for payment of the costs of the Project.

“Qualifying Water Project” means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to Section 72-4A-9(B), NMSA 1978, as amended and supplemented.

“State” means the State of New Mexico.

“Term Sheet” means Exhibit “A” attached to the Loan/Grant Agreement.

“Useful Life” means the structural and material design life of the Project.

“Water Project Fund” means the fund of the same name created pursuant to Section 72-4A-9, NMSA 1978, and held and administered by the NMFA.

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

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

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

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

A. The Project is needed to meet the needs of the Borrower/Grantee and the public whom it serves.

B. Moneys available and on hand for the Project from all sources other than the Loan/Grant are not sufficient to defray the cost of acquiring the Project but, together with the Loan/Grant Amount, are sufficient to complete the Project.

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

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life, which is not less than twenty (20) years, as required by Section 72-4A-7(A)(1), NMSA 1978.

E. Together with the Loan/Grant Amount, the Additional Funding Amount is now available to the Borrower/Grantee, or is expected to become available to the Borrower/Grantee within six (6) months after the Closing Date, and, in combination with the Loan/Grant Amount, will be sufficient to complete the Project and pay Expenses.

F. The Lenders/Grantors shall maintain on behalf of the Borrower/Grantee a separate Project account or Project accounts and financial records in accordance with Generally Accepted Accounting Principles during the construction or implementation of the Project.

G. The Borrower/Grantee has, or will acquire by the Closing Date as required by the Loan/Grant Agreement, title to or easements or rights of way on the real property upon which the Project is being constructed or located.

Section 5. Loan/Grant Agreement—Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least a three-fourths majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the constituent public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of two hundred forty thousand dollars (\$240,000) and borrowing the Loan Amount of sixty thousand dollars (\$60,000) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which are hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Grant shall be in the amount of two hundred forty thousand dollars (\$240,000) and the Loan shall be in the amount of sixty thousand dollars (\$60,000). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

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

Section 7. Security. The Loan Amount shall be solely secured by the pledge of the Pledged Revenues herein made and as set forth in the Loan/Grant Agreement.

Section 8. Disposition of Proceeds: Completion of the Project.

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the NMFA and approves of the deposit of the Loan/Grant Amount in those accounts as shown in the Term Sheet. Until the Completion Date, the money in the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement.

B. Completion of the Project. The Borrower/Grantee shall proceed to complete the Project with all due diligence. Upon the Completion Date, the Borrower/Grantee shall execute a certificate stating that completion of and payment for the Project has been completed. Following the Completion Date, any balance remaining in the Project Account shall be transferred and deposited into the Water Project Fund or otherwise distributed as provided in the Loan/Grant Agreement.

C. WTB and NMFA Not Responsible. Neither the Water Trust Board nor the NMFA shall in any manner be responsible for the application or disposal by the Borrower/Grantee or by its officers of the funds derived from the Loan/Grant Agreement or of any other funds held by or made available to the Borrower/Grantee in connection with the Project.

Section 9. Payment of Loan Amount. Pursuant to the Loan/Grant Agreement, the Borrower/Grantee shall pay the Loan Amount directly to the NMFA as provided in the Loan/Grant Agreement in an amount sufficient to pay principal and other amounts due under the Loan/Grant Agreement and to cure any deficiencies in the payment of the Loan Amount or other amounts due under the Loan/Grant Agreement.

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount, which lien shall be subordinate to any lien on the Pledged Revenues existing on the Closing Date and, further, shall be subordinate to all other indebtedness secured or that may in the future be secured by the Pledged Revenues, except, however, that the lien shall be on parity with any other lien, present or future, for the repayment of any other loan provided to the Borrower/Grantee by the Lenders/Grantors pursuant to the Act.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

Section 12. Amendment of Ordinance. This Ordinance after its adoption may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the Water Trust Board and the NMFA.

Section 13. Ordinance Irrepealable. After the Loan/Grant Agreement has been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Loan/Grant Agreement shall be fully discharged, as herein provided.

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15. Repealer Clause. All bylaws, orders, ordinances, resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Borrower/Grantee kept for that purpose, authenticated by the signatures of the Mayor and City Clerk of the Borrower/Grantee, and this Ordinance shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Ordinance, this Ordinance shall be effective upon adoption of this Ordinance by the Governing Body.

Section 17. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

[Remainder of page intentionally left blank.]

[Form of Summary of Ordinance for Publication]

**City of Deming
Notice of Adoption of Ordinance**

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 1209, duly adopted and approved by the City Council of the City of Deming on March 14, 2011. A complete copy of the Ordinance is available for public inspection during normal and regular business hours in the office of the City Clerk, at 309 S. Gold Avenue, Deming, New Mexico 88030.

The title of the Ordinance is:

**CITY OF DEMING
ORDINANCE NO. 1209**

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "LENDERS/GRANTORS") AND THE CITY OF DEMING (THE "BORROWER/GRANTEE"), IN THE AMOUNT OF THREE HUNDRED THOUSAND DOLLARS (\$300,000), EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF THE PLANNING, DESIGN AND CONSTRUCTION OF THE SYSTEM THAT WILL SUPPLY THE TREATED EFFLUENT WATER TO THE BORROWER/GRANTEE'S SPORTS COMPLEX FOR IRRIGATION, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.

This notice constitutes compliance with Section 6-14-6, NMSA 1978.

[End of Form of Summary for Publication]

PASSED, APPROVED AND ADOPTED THIS 14TH DAY OF MARCH, 2011.



CITY OF DEMING

By William C. Shattuck
William C. Shattuck,
Mayor Pro Tem

ATTEST:
By Richard F. McInturff
Richard F. McInturff,
Deputy Clerk

[Remainder of page intentionally left blank.]

Governing Body Member Councilor Enis then moved adoption of the foregoing Ordinance, duly seconded by Governing Body Member Councilor Milo.

The motion to adopt the Ordinance, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye: Councilor Sanchez
Councilor Enis
Councilor Milo
Mayor Pro Tem Shattuck

Those Voting Nay: _____

Those Absent: Mayor Andres Z. Silva

Four (4) Members of the Governing Body having voted in favor of the motion, the Mayor declared the motion carried and the Ordinance adopted, whereupon the Mayor and City Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Ordinance, the meeting upon motion duly made, seconded and carried, was adjourned.

CITY OF DEMING

By William C. Shattuck
William C. Shattuck,
Mayor Pro-Tem



By Richard F. McInturff
Richard F. McInturff,
Deputy Clerk

STATE OF NEW MEXICO)
) ss.
COUNTY OF LUNA)

I, Mary Jo Valdez, the duly qualified and acting City Clerk of the City of Deming (the "Borrower/Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Council of the Borrower/Grantee (the "Governing Body"), had and taken at a duly called regular meeting held at the Municipal Offices, 309 S. Gold Avenue, Deming, New Mexico, on March 14, 2011 at the hour of 6:00 p.m., insofar as the same relate to the adoption of Ordinance No. 1209 and the execution and delivery of the proposed Loan/Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the Borrower/Grantee's open meetings standards in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of April, 2011.

CITY OF DEMING

By Mary Jo Valdez
Mary Jo Valdez,
City Clerk

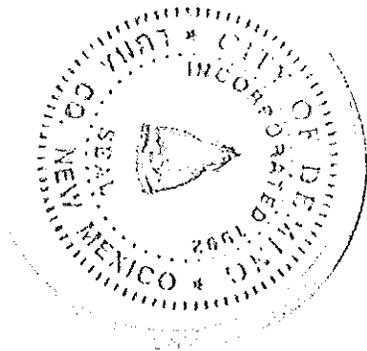


EXHIBIT "A"

Notice of Meeting



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

CITY COUNCIL MEETING

March 14th, 2011

4:00 P.M. CITY COUNCIL WORKSHOP

6:00 P.M. CITY COUNCIL MEETING

AGENDA

Call to Order / Pledge of Allegiance

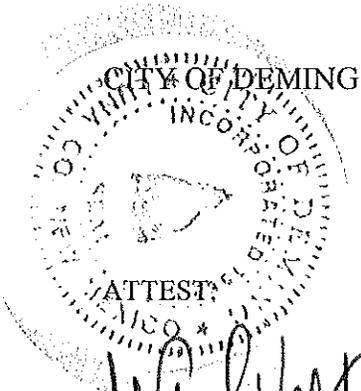
1. Consent Agenda
 - A. Minutes - City Council Workshop and Regular Meeting 02/14/11
 - B. Minutes – Special City Council Meeting 03/04/11
 - C. Minutes – Tourism Development Committee 02/09/11
 - a. Recommendation to renew a contract with Fun & Games
 - D. Minutes - Airport Commission 02/15/11
 - a. Recommendation to purchase new gates for the airport
 - b. Recommendation to solicit RFPs for mesquite harvesting
 - E. Minutes - Parks Commission 02/15/11
 - a. Recommendation to change the Parks Commission meeting time from 5:00 to 5:30 p.m.
 - F. Minutes – P&Z 02/28/11 - Cancelled
 - G. Minutes – Marshall Memorial Library 02/22/11
2. Public Forum
3. Presentation of Certificates of Appreciation for Deming Police Department Personnel
4. Mayor's Appointment to the Tourism Development Committee
5. Request to Waive Rental Fees for the Use of the Special Events Center by Luna County Public Health on April 2, 2011 for their Annual Community Health Fair
6. Authorization Request by Deming Garden to Plant a Community Farm
7. Public Hearing: To Consider an Ordinance Authorizing the Execution and Delivery of a Water Project Fund Loan (\$60,000) /Grant (\$240,000) Agreement by and between the NM Water Trust Board and the New Mexico Finance Authority and the City of Deming
8. Bids
 - a. Bid #11-13 Recycling Facility Metal Building
9. 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
10. Open Session: Motions if any
11. Adjourn Meeting

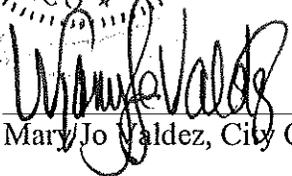
The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., April 11th, 2011.

11. **Adjourn Meeting**

With no further business to conduct, Councilor Sanchez motioned to adjourn the meeting at 7:05 p.m., second by Councilor Milo; carried unanimously.

The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., April 11th, 2011.




Mary Jo Valdez, City Clerk


Andrés Z. Silva, Mayor