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CITY COUNCIL
Special Meeting
November 19, 2010
10:00 A.M.
AGENDA

Call to Order / Pledge of Allegiance
Open Special Session

1. Open Public Hearing for 2011 CDBG Application
 - a. CDBG Progress Report
 - b. Input – General Community
 - c. Close CDBG Hearing
2. Out of State Travel Request by Richard McInturff to Attend the El Paso Municipal Gas Customer Group Meeting in Mesa, AZ on December 15, 2010
3. Resolution: For the Selection of a Community Project and Authorization for the Submission of a NM CDBG Program Application to DFA
4. Public Hearing: To Consider an Ordinance Amending Title 9, Chapter 5-8F and Chapter 6-2, 6-5D and 6-5E of the Municipal Code
5. Adjourn Meeting

The Next Regularly scheduled workshop/meeting is December 13th, 2010 commencing at 4:00 p.m. and 6:00 p.m.

**CITY COUNCIL SPECIAL
MEETING MINUTES
November 19th, 2010**

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

Absent:

Staff Present: Aaron Sera, Community Services Director Mary Jo Valdez, Deputy Clerk
Louis Jenkins, Public Works Director Rick Kocab, Assistant Treasurer
Edgar Davalos, Fire Chief Lloyd Valentine, Sr. Budget Analyst

Mayor Silva led the pledge of allegiance and called the meeting to order at 10:00 a.m.

1. Open Public Hearing for 2011 CDBG Application

a. CDBG Progress Report

Mr. Sera reported on previous CDBG projects and public hearings that were held for the 2011 CDBG Application process. Mr. Sera reported on community input forms that have been received. (Report Attached)

Mayor Silva stated that the public requests for bus route benches is being addressed by the Southwest Regional Transit District. Mayor Silva stated that a few benches are anticipated to be placed up this year.

Councilor Enis stated that she is in favor of transient housing; adding that it is needed in the area.

Councilor Milo stated, on behalf of his constituents, that there are serious flooding issues in the vicinity of Pear and 8th Streets. Councilor Milo stated that his constituents are concerned with protecting their homes from the flooding; adding that another project in the area to address drainage would be beneficial.

Mayor Silva recognized the presence of Priscilla Lucero, Executive Director for the Southwest Council of Governments and asked if she had any comments or suggestions that she'd like to add.

Ms. Lucero addressed Council stating that she is present to offer her knowledge on the CDBG Application Process in efforts to help make their decision on the selection of a project more effective to obtain funding.

Mayor Silva opened the hearing for public comments.

b. Input – General Community

Mr. Caldwell addressed Council stating that it was futile to recommend a project since he thought the City has already selected a project to recommend for the new application.

Ms. Lucero addressed Council stating that she has been working with CDBG for about 20 years. Ms. Lucero stated that a board is comprised of representatives from Council of Governments within each area of New Mexico. Ms. Lucero stated that the applications are first evaluated by the board based on criteria such as citizen participation, feasibility, the need for the project, and the readiness of projects. Ms. Lucero stated that the council then ranks and rates each application. Ms. Lucero stated that the council members rank and rate the applications during the presentations based on the same criteria.

Mr. Sera asked Ms. Lucero, based on the citizen participation input forms that have been received, which project are most likely to be eligible.

Ms. Lucero stated that a homeless shelter is an eligible project; a family youth center is eligible so long as it will provide a direct a benefit to low-income families in Deming; sidewalks are eligible and would require income surveys to ensure that it would primarily benefit low to moderate income families; drainage projects are eligible and would require income surveys to ensure that it would primarily benefit low to moderate income families. Mayor Silva asked if it matters on which area of the City the project would be performed. Ms. Lucero stated that it is important to ensure that the proposed project would primarily benefit families who are low to moderate-income families. Ms. Lucero stated that graffiti removal would not be an eligible project. Ms. Lucero also stated that it is beneficial to the municipality to request the maximum amount of funding. Ms. Lucero stated that stop signs are not eligible; adding that she has not seen a recreational project in the past. Ms. Lucero stated that the council looks favorably at projects that protect the health and safety of communities. Councilor Sanchez asked if recreational projects tied to youth would be eligible. Ms. Lucero stated that it would likely be eligible dependent upon the proposed project.

Mayor Silva closed public comments.

Councilor Enis asked if Council could review the public input forms that were received by staff. Mr. Sera stated that he would submit copies to Council for their review.

Ms. Lucero informed Council to look for projects that will be stand alone projects once they are completed in addition to projects that are fully functional. Ms. Lucero also informed Council to consider planning for phasing if necessary when they are looking for CDBG Projects to submit for funding. Councilor Enis asked if projects should be planned before applying for funding. Ms. Lucero suggested selecting projects that are shovel ready before applying and also selecting projects that will be fully functional after completion. Mayor Silva stated that the City has been successful in obtaining funding for projects because they have been projects that are within the \$500,000 range as well as projects that can be completed by the deadline to allow the City to apply for future funding.

Mayor Silva asked Mr. Sera if staff had any recommendations on a project selection for the 2011 CDBG Application. Mr. Sera stated that staff recommends an additional drainage project to address the flooding issues on Nickel, Lead, and Slate Streets along Pear Street. Mr. Sera stated that the pond is one step in addressing the flooding; however, it will not take care of all the issues in that area.

Mr. Sera also informed Council on a transition housing project that Ms. Sherman is working on; adding that he is a part of the committee.

Mr. Sera explained that along Pear Street, on Slate and Nickel Streets, the flooding creates about 10 to 12 inches of standing rain water causing the homes in the area to be flooded. Mr. Sera also stated that a drainage project in the area would address some of these issues. Mr. Sera stated that the pond is designed to catch water to keep the intersection of Pear and 8th Streets clear.

Councilor Sanchez asked if there was any vacant property in the area for an additional retention pond. Mr. Sera stated that the City does not own land in the area; adding that drainage improvements in the area could possibly be completed for approximately \$600,000.

c. Close CDBG Hearing

Mayor Silva closed the public hearing.

2. Out of State Travel Request by Richard McInturff to Attend the El Paso Municipal Gas Customer Group Meeting in Mesa, AZ on December 15, 2010

Mayor Silva stated that Mr. McInturff is requesting for the approval to travel to Mesa, AZ to meet with the City's attorney in relation to gas prices and utilities. Mayor Silva stated that Mr. McInturff has been in contact with Mr. Gregg and has been informed that the date may be changed to a time on or around December 15, 2010.

Councilor Enis motioned to approve the out of state travel for Mr. McInturff to attend the El Paso Municipal Gas customer group meeting in Mesa, AZ on or around December 15, 2010, second by Councilor Milo; carried unanimously.

3. Resolution: For the Selection of a Community Project and Authorization for the Submission of a NM CDBG Program Application to DFA

Mr. Sera read the resolution for Council. Mayor Silva stated that the resolution designates Mr. Sera to be the authorized representative for the City and asked Council for their recommendation of the project.

Mayor Pro Tem Shattuck motioned to approve the resolution authorizing the submission of a NM CDBG Program application to DFA for the Drainage on Pear Street, second by Councilor Milo; carried unanimously.

Mayor Silva asked staff to continue working on transition housing. Councilor Enis requested information on the committee as she is knowledgeable in housing and would like to contribute to the group.

4. Public Hearing: To Consider an Ordinance Amending Title 9, Chapter 5-8F and Chapter -2, 6-5D and 6-5E of the Municipal Code

Mr. Valentine explained the proposed ordinance stating that staff recommends withdrawing Item 2. Title 9, Chapter 6, 2 from the proposed ordinance.

Mr. Valentine stated that the proposed ordinance would address the payment of delinquent accounts; adding that section 9-6-5 addresses a lien to be placed on the property in the event that delinquencies exist on the account as well as placing the responsibility on the property owner if a disclaimer does not exist. Mr. Valentine stated that property owners would be required to submit a disclaimer to staff in order to be relieved from any debts incurred by renters of their properties. Mr. Valentine stated that property owners who have disclaimers on their rental property would subject their renters to pay a deposit of 2.5 times the property's highest utility bill prior to having services turned on.

Mayor Pro Tem Shattuck asked if a disclaimer would have to be filed each time the property is rented. Mr. Valentine stated that the disclaimer is only filed one time and remains in the system throughout the time of their ownership. Mr. Valentine stated that if the property owner decides not to file a disclaimer then they will be held liable for any debts incurred on their property by renters. Mayor Silva stated that if a disclaimer is signed, then the renter is responsible for the utilities they incur; adding that if a disclaimer is not signed, then the owner is held responsible.

Mayor Pro Tem Shattuck stated that property owners would have to choose whether they would sign a disclaimer which would affect their renters by having to pay a deposit of 2.5% of the highest bill; or not to sign a disclaimer which would make the owner responsible for any debt incurred by their renters. Mayor Pro Tem Shattuck stated that some tenants may not be able to afford the 2.5% deposit along with deposits for renting the property.

Councilor Milo asked if there were any public service announcements notifying property owners of the proposed ordinance. Councilor Enis stated that if the proposed ordinance is passed, property owners need to be educated about the process. Mr. Valentine stated that staff would issue a public notice to inform property owners if the ordinance were approved.

Councilor Sanchez asked about the deposit that is paid to initiate service, whether the customer would receive a portion of the deposit back. Mr. Valentine stated that in the event that services are discontinued, the deposit placed on the account will be applied to the final bill and the remainder will then be refunded to the customer.

Councilor Milo asked how serious the problem is in relation to uncollectible bills. Mr. Valentine stated that staff has encountered several situations in which properties that have unpaid balances are being sold making it difficult for staff to collect the unpaid bills; adding that the process is difficult at this point because it is not structured. Mr. Valentine stated that the proposed ordinance would allow for a lien to be placed on the property.

RESOLUTION No. 10-31

**AUTHORIZING THE SUBMISSION OF A NEW MEXICO
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
APPLICATION TO THE DEPARTMENT OF FINANCE AND
ADMINISTRATION / LOCAL GOVERNMENT DIVISION**

WHEREAS, the elected Council of the City of Deming, New Mexico, (herein called the Governing Body) has determined that Community Development Block Grant funds would significantly aid in the construction of street and sewer lines, sidewalks, blight removal, drainage control, improved utilities, park improvements, flood control, quiet zones and promoting economic development which will aid in the elimination of slum and blighted areas in the City, and;

WHEREAS, the Governing Body has held Three (3) Public Hearings and one Public Input Meeting, and met all requirements necessary for submission of said application; and

WHEREAS, various projects were advanced by the public to be considered by City Council; and

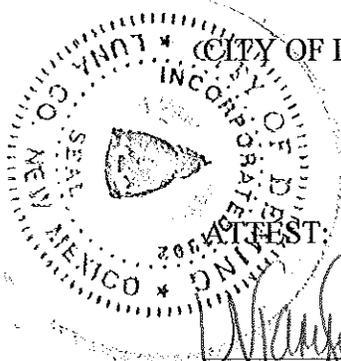
WHEREAS, the City Council has determined that the Drainage Project on Pear Street meets the requirements of the Community Development Block Grant Program.

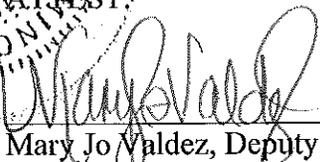
NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DEMING, NEW MEXICO: That

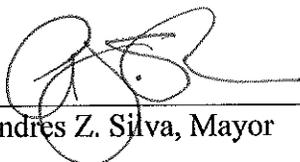
1. The City Council directs and designates Aaron Sera, Community Services Director, as its Authorized Representative to act in all matters in connection with this application and the City's participation in the New Mexico Community Development Block Grant Program.
2. The City of Deming officials and staff are directed to do any and all acts necessary to carry out the intent of this Resolution.
3. The project application for Community Development Block Grant funding for 2011 shall be a Drainage Project on Pear Street.

PASSED, ADOPTED, SIGNED AND APPROVED THIS 19th DAY OF NOVEMBER, 2010

CITY OF DEMING, NEW MEXICO




Mary Jo Valdez, Deputy Clerk


Andres Z. Silva, Mayor

Councilor Milo asked if it would be possible to notify an owner if their tenant is past due on bills. Mr. Valentine stated that he was unsure if the information could be released.

Mayor Pro Tem Shattuck asked for clarification of the process if the owner chooses not to sign a disclaimer. Mr. Valentine stated that if an owner does not sign a disclaimer, the tenant would only pay a deposit of 1.5% of the highest bill. Mr. Valentine added that he's researched other cities and they charge a flat rate for deposits.

Mayor Silva opened the public hearing for public comments.

Mr. Caldwell addressed Council asking if deposits are refunded after 13 months all deposits under \$75 if the utility bills are paid on time. Mr. Valentine stated that they are refunded upon the request from the customer. Mr. Caldwell stated that he would like the Councilors that own property to recuse themselves from voting on the item due to conflict of interest.

Mr. Caldwell proposed an amendment to add that property owners should inform their lessees that they've signed a disclaimer. Mr. Caldwell added that those property owners who participate in HUD housing should not be eligible to file a disclaimer. Mayor Pro Tem Shattuck asked if property owners could legally file the disclaimers in these instances.

Mayor Silva closed public comments and opened the item for Council's discussion.

Mayor Pro Tem Shattuck stated that there is a NM Land/Tenant Act which property owners are required to follow which he would like to review for more information. Mayor Pro Tem Shattuck agreed that tenants should be notified about having to place a higher deposit if they have filed a disclaimer. Mayor

Pro Tem Shattuck added that some property owners have their utilities on "standby" which allows the tenants to move in prior to initiating services; in this event most owners remind their tenants to change over the utilities into their name. However, if they fail to do so and leave a bill unpaid, the owner is responsible for the bill as well. Mayor Pro Tem Shattuck stated that he is unfamiliar with the HUD program and is unsure if it is legal to file a disclaimer if the owner participates in the HUD program. Mr. Valentine stated that the option for an owner to file a disclaimer is a State Law. Mayor Silva stated that some owners received utility payments from HUD; adding that there are other cases in which the tenants receive extra payments to be used for their utilities. Mayor Pro Tem Shattuck asked if the law is strictly for residential properties or does it include commercial properties. Mr. Valentine stated that the State Law does not distinguish between residential and commercial.

Councilor Milo asked to have Mr. Foy review the concerns that Council has on the proposed ordinance before determining whether the ordinance should be passed.

Mayor Pro Tem Shattuck motioned to table the proposed ordinance and to bring back the proposed ordinance once it has been reviewed by legal counsel, second by Councilor Milo; carried unanimously.

5. Adjourn Meeting

With no further business to conduct, Councilor Sanchez motioned to adjourn the meeting at 11:01 a.m., second by Councilor Milo; carried unanimously.

The Next Regular City Council Workshop and Meeting are scheduled for December 13th, 2010 commencing at 4:00 p.m. and 6:00 p.m.

CITY OF DEMING, NEW MEXICO

ATTEST:
Mary Jo Valdez, Clerk

Andres Z. Silva, Mayor