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## CITY COUNCIL MEETING

### March 14, 2016

### 6:00 P.M.

### AGENDA

#### CALL TO ORDER/PLEDGE OF ALLEGIANCE

1. Motion to Open Organizational Meeting
2. Presentation of Newly Elected Officials
3. Nomination and Election of Mayor Pro-Tem
4. Appointments to Commissions, Committees, and Boards
5. Approval of Full-time, Part-time, and Temporary Employees
6. Motion to Close Organizational Meeting

#### CALL TO ORDER-Regular City Council Meeting of March 14, 2016

1. Consent Agenda
  - A. Minutes – City Council Meeting 02/08/16
  - B. Minutes – Airport Commission Meeting 02/09/16
  - C. Minutes – Planning & Zoning Commission 02/16/16
    - a. Recommendation Regarding a Request for a special use permit for a recycling business for United Recycling at 808 N. Gold Ave., zoned "C" commercial *(To be presented later in meeting as Quasi-Judicial Public Hearing)*
    - b. Recommendation Regarding a Variance Request from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1508 S. Iron Street. *(To be presented later in meeting as Quasi-Judicial Public Hearing)*
    - c. Recommendation Regarding a Variance Request from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1518 S. Iron Street. *(To be presented later in meeting as Quasi-Judicial Public Hearing)*
    - d. Recommendation Regarding a Variance Request from Southwest Regional Housing for variances on lots size, width, side setback and fencing requirement in the A-3 zone at 1522 S. Iron Street. *(To be presented later in meeting as Quasi-Judicial Public Hearing)*
  - D. Minutes – Marshall Memorial Library Board Meeting 02/23/16
2. Public Forum
3. Swearing-In of Firefighter/EMT Jordan Ramirez
4. Appointment of Assistant Police Chief
5. Ratification of Proclamation to Recognize Marilyn “Muggs” Johnson Day on May 12, 2016

6. Ratification of Proclamation for National Down Syndrome Day
7. Approval to Purchase Street Maintenance Equipment
8. Approval of Land exchange between City of Deming and Hurt Cattle Company – Old Deming Landfill Closure
9. Approval of a proposed revision/update to DM AR 12-32, *Establishment of Amended Pay Plan.*
10. Approval of a proposed revision/update to DM AR 08-05, *Leave, Section 14 Humanitarian Leave.*
11. Opening of Quasi-Judicial Public Hearings
  - a. Quasi-Judicial Public Hearing to Consider a Request for a special use permit for a recycling business for United Recycling at 808 N. Gold Ave., zoned "C" commercial
  - b. Quasi-Judicial Public Hearing to Consider a Request for a Variance from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1508 S. Iron Street.
  - c. Quasi-Judicial Public Hearing to Consider a Request for a Variance from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1518 S. Iron Street.
  - d. Quasi-Judicial Public Hearing to Consider a Request for a Variance from Southwest Regional Housing for variances on lots size, width, side setback and fencing requirement in the A-3 zone at 1522 S. Iron Street.
12. Administrator's Report
13. Adjourn Meeting

***The next regular City Council Meeting is scheduled for April 11, 2016 at 6:00 p.m.***

# CITY COUNCIL MEETING MINUTES March 14, 2016

**Council Present:** Benny L. Jasso, Mayor  
Dr. Victor Cruz, Councilor  
David L. Sanchez, Councilor  
Joe “Butter” Milo, Mayor Pro Tem  
Roxana Rincon, Councilor

**Council/Staff Absent:** None

**Staff Present:** Aaron Sera, City Administrator  
Jim Massengill, Public Works Director  
Raul Mercado, Fire Chief  
Heather Sosa, Battalion Fire Chief  
Jim Foy, City Attorney  
Brandon Gigante, Police Chief  
Bobby Orosco, Asst. Police Chief  
Laura Holguin, Treasurer

**Recording Secretary:** Mary Corral, Receptionists

Mayor Jasso called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

1. Mayor Jasso called for a motion to open organizational meeting.  
Councilor Milo moved to approve the Consent Agenda as presented. Councilor Sanchez seconded the motion; motion carried unanimously.
2. Presentation of Newly Elected Officials –  
Mayor presented and congratulated re-elected officials, Joe “Butter” Milo and Roxanna Rincon, and stated that Judge VanGundy was not present but was also re-elected.
3. Nomination and Election of Mayor Pro-Tem  
Councilor Rincon moved nominated Councilor Cruz. Councilor Milo seconded the motion; motion carried unanimously.
4. Appointments to Commissions, Committees, and Boards  
Councilor Milo moved to approve the appointments. Councilor Rincon seconded the motion; motion carried unanimously.
5. Approval of Full-time, Part-time, and Temporary Employees  
Councilor Rincon moved to approve the employees. Councilor Milo seconded the motion; motion carried unanimously.
6. Motion to Close Organizational Meeting  
Councilor Milo moved to close the organizational meeting. Councilor Rincon seconded the motion; motion carried unanimously.

Mayor Jasso called the regular meeting to order

**1. Consent Agenda**

Mr. Sera called attention to Item C. Minutes—Planning and Zoning Commission Meeting 02/16/16. He stated that the four items listed will be presented at a later time during the meeting as Quasi-Judicial Hearings. Mr. Sera stated that Council will only be approving the minutes for this item.

Mayor Pro Tem Cruz moved to approve the Consent Agenda as presented. Councilor Milo seconded the motion; motion carried unanimously.

**2. Public Forum**

Mayor Jasso opened the floor to the public to receive any comments. The following person commented:

Mayor Jasso recognized Mr. Ramon Pena, thanking him for providing 16 vehicles for the Fire Department extricating training.

Laurie Finley, 10280 Highway 549, Deming, Deming MainStreet Executive Director  
Steven Duran, 318 W. Mulberry  
Amelia Aguirre, 219 W. Mulberry  
Benny J. Mercer, 5350 Overhill Drive

**3. Swearing-In of Firefighter/EMT Jordan Ramirez**

Mayor Jasso administered the Oath to firefighter Jordan Ramirez

**4. Appointment of Assistant Police Chief**

Mayor Jasso requested approval to appoint Bobby Orozco to serve as the Assistant Police Chief, effective March 15, 2016, and to be granted the authority to execute the employment contract.

Mayor Pro Tem Cruz moved to approve the appointment. Councilor Milo seconded the motion; motion carried unanimously.

**5. Ratification of Proclamation to Recognize Marilyn “Muggs” Johnson Day on May 12, 2016**

Mayor Jasso read the proclamation to declare May 12, 2016 as Marilyn “Muggs” Johnson Day.

Councilor Sanchez moved to ratify the proclamation to declare May 12, 2016 as Marilyn “Muggs” Johnson Day. Councilor Rincon seconded the motion; motion carried unanimously.

**6. Ratification of Proclamation for National Down Syndrome Day**

Mayor Jasso read the proclamation to declare March 21, 2016 as National Down Syndrome Day.

Councilor Sanchez moved to ratify the proclamation to declare March 21, 2016 as National Down Syndrome Day. Councilor Rincon seconded the motion; motion carried unanimously.

**7. Approval to Purchase Street Maintenance Equipment**

Mr. Sera stated staff is requesting approval to purchase an asphalt zipper. He stated that the equipment will help with street maintenance. The equipment grinds and grates the road and replaces the base on the road. He stated that by purchasing the equipment it will save in the long term. He stated that a demo was performed at the cemetery.

Mr. Spivey reported that the machinery mills approximately four (4) feet in width, at a time. He stated that the machine is fast and picks up all at one time, and would greatly benefit the citizens.

Mr. Sera stated that the estimated annual maintenance cost would be around \$1,500 per year.

Mr. Sera stated that staff is also seeking approval to purchase a street sweeper. He stated that a new sweeper runs about \$265,000. He stated that the unit that was on auction was researched by Mr. Spivey, costing \$25,000 plus approximately \$5,000 to \$10,000 for shipping. He stated that the current one needs a complete makeover for it to be usable.

Mr. Spivey stated that the proposed unit was originally purchased new and is still in good condition, and highly recommends the purchase to enhance the look of the community streets. Mr. Spivey stated that he received a shipping quote of \$5,000 for shipping.

Mayor Pro Tem Cruz moved to approve the purchase of the equipment. Councilor Milo seconded the motion; motion carried unanimously.

**8. Approval of Land exchange between City of Deming and Hurt Cattle Company – Old Deming Landfill Closure**

Mr. Massengill stated that the City is under a mandate by the Solid Waste Bureau to finish the closure of the old Deming Landfill, which is at the east end of Fourth Street. He stated the final part of the closure plan is expensive and funding has been requested from the Colonias Infrastructure Fund. He stated there is enough property to put the perimeter drainage ditch but might get into some trash issues because trash goes to the perimeter of the property, so a 2.8 acres land exchange is being requested. He stated no cost will be incurred, since both properties are comparable to one another. He went on to say that there is a boundary survey that needs to be done, and the exchange can be done with a quit claim deed. Mr. Massengill stated that the engineering will be easier if it is approved and staff recommends approval for the exchange to proceed with the landfill closure.

Councilor Sanchez moved to approve the property exchange, as presented. Councilor Rincon seconded the motion; motion carried unanimously.

**9. Approval of a proposed revision/update to DM AR 12-32, *Establishment of Amended Pay Plan.***

Mr. Sera stated that the request is an amendment that would allow for range adjustments and a pay increase for those employees that are maxed out in their pay range. He stated that merit increases will not be eliminated. He also noted that the Periodic Range Adjustments would allow for changes to the range minimums and maximums only when needed to keep wages competitive with the local market. He stated that this would allow for the change to be in the Administrative Regulations and will not need to be brought before Council each year.

Mayor Pro Tem Cruz moved to approve the revision of AR DM 12-32. Councilor Milo seconded the motion; motion carried unanimously.

**10. Approval of a proposed revision/update to DM AR 08-05, *Leave, Section 14 Humanitarian Leave.***

Mr. Sera stated that DM AR 08-15 should be DM AR 08-05. He called to attention section 14, which is the only item changing in this Regulation. He stated that the whole regulation was re-written to align with the recent State of New Mexico Law mandating the establishment of policy and procedure for Humanitarian Leave. He stated that in the past, staff was only allowed to donate annual leave, and now they will be allowed to donate both annual and sick leave according to the New Mexico law. Mr. Sera stated that the law states that the hours will be prorated according to the hourly rate of the person donating and the recipient of the leave and the amendment addresses the issue.

Mayor Pro Tem Cruz moved to approve the revision of DM AR 08-05. Councilor Milo seconded the motion; motion carried unanimously.

**11. Opening of Quasi-Judicial Public Hearings**

Mayor Jasso read the four (4) public hearings to be presented. They are as follows:

- a. To Consider a Special Use Permit for a recycling business for United Recycling at 808 N. Gold Ave., zoned "C" commercial
- b. To Consider a Request for a Variance from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1508 S. Iron Street.
- c. To Consider a Request for a Variance from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1518 S. Iron Street.
- d. To Consider a Request for a Variance from Southwest Regional Housing for variances on lots size, width, side setback and fencing requirement in the A-3 zone at 1522 S. Iron Street.

He called all four (4) Quasi-Judicial public hearings to order. He swore in all parties who were signed in to give testimony.

Mayor Jasso went on to state that once a decision is announced by the authority, it will

become effective after the written order is executed and filed with both the Municipal and County Clerks, and any action of the City Council in approving conditionally approving or denying this application may be appealed to the District Court 15 calendar days after the date of this action by the applicant, any aggrieved person, by any member of the City Council or by the City Administrator.

a. Mayor Jasso called to order the public hearing to consider a special use permit for a recycling business for United Recycling. He confirmed with Council that there were no abstentions, ex-parte contacts, no conflicts of interest; that the legal notices were properly posted by the secretary and swore in all parties who would be giving testimony.

Ms. Gentile, City Planner, stated that the applicant, Max Gomez, is seeking to relocate his business, United Recycling, to 808 N. Gold Ave. The proposed location is zoned Commercial, and a recycling business requires a special use permit.

Ms. Gentile stated Planning and Zoning commission recommended approval, and staff has no technical objection to this request. Ms. Gentile stated that Council may consider that any construction of buildings meet requirements, as well as consider a slatted fence on the concrete slab for stored materials. She stated that Council options would be approval, denial or table the motion.

Mayor Jasso asked if the applicant or agent was present. The applicant, Max Gomez, stated some of the products would be aluminum, copper and brass. He stated the current facility, located at 201 W. Pine Street, is too small and the business is expanding. Mr. Gomez stated the requested location is perfect for what they need.

Mayor Jasso asked if there were any questions of the applicant from staff. Mayor Pro Tem Cruz asked if Mr. Gomez would consider a fundraising event for the school aged children. He stated that he has previously worked with different schools on fundraisers.

Mayor Jasso asked if any affected parties would like to speak. There were none.

Mayor Jasso asked if any other persons would like to speak. There were none.

Mayor Jasso closed the public comments and brought the hearing back to the Council. He asked Council if they were prepared to make a motion or if they would like to go into closed session under NMSA 1978 10-15-1 (H)(3).

Mayor Pro Tem Cruz moved to approve the special use permit for a recycling business for United Recycling at 808 N. Gold Ave., zoned "C" commercial, as presented. Councilor Rincon seconded the motion; Mayor Pro Tem Cruz made an amendment to his motion to include that building requirements and codes will be met. Seconded by Councilor Sanchez; motion carried by the following roll call vote:

**ROLL CALL VOTE**

Councilor Rincon	Aye
Councilor Milo	Aye

Mayor Pro Tem Cruz           Aye  
Councilor Sanchez           Aye

b. The second hearing, a variance request for a Request for a Variance from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1508 S. Iron Street, was called to order. Mayor Jasso confirmed that the legal notices were properly posted by the secretary and swore in all parties who would be giving testimony.

He confirmed with Council that there were no abstentions, ex-parte contacts, no conflicts of interest.

Councilor Milo recused himself for this item.

Ms. Gentile, City Planner, read the memo into record, which states the applicant, Southwestern Regional Housing (SRHCDC), is requesting variances for the lots at 1508 S. Iron Street. The variances are for the lot size and width, and for fencing. The zone is A-3, Single Family Residential and this zone has some specific requirements that include a minimum width of 70 feet, and a minimum lot area of 9,000 square feet. Additionally this zone requires a perimeter fence around the property with a minimum height of 2 1/2 feet for the front yard wall/fence and a minimum 4 feet high for the rear yard, constructed of brick, block, masonry, cedar or redwood. The applicant is seeking variance from each of these requirements. They are planning to build an affordable house at this address, which will be 50 feet in width, and the lot size is 7,100 square feet. Ms. Gentile stated that because this is a house for low-income applicants and there is a budget for its construction, they are also requesting a variance on the fence requirement. The zoning regulations are attached, as well as a site plan and some photos of what the house will look like. Ms. Gentile stated that the Planning and Zoning Commission recommended denial of the case, and that staff has no technical objection to the request. She stated that Veronika from the Southwest Regional Housing had some information she would like to distribute to Council.

Mayor Jasso asked if there were any questions of Staff by any Council Member.

Mayor Pro Tem Cruz asked if according to the zone, every lot must have a fence. Ms. Gentile stated that in this particular zone, yes, however, not every house in that area has a fence. Mayor Pro Tem Cruz asked Ms. Gentile what the Planning and Zoning Commissions major issue was. She stated that they were concerned about the appraisal value that these homes would have on their properties of these properties being in their neighborhood. Mr. Foy clarified that the impact of the appraisal value could not be the determining factor in this case. He stated that the decision must be based on whether Council would agree with the statutes and ordinances call for, do not take into consideration the increase or decrease in appraised value to avoid any misperception. Ms. Gentile stated that the other statement made by the Planning and Zoning Commission was that they felt they have been approving too many variances, so this case they chose to deny. Mr. Foy stated that should not be used by Council to base their decision. Mayor Pro Tem Cruz stated that he feels that it behooves Council to be as objective as possible when making a decision on this case.

Mayor Jasso asked if the applicant would like to make a statement: Veronika Molina, Executive Director of SRHCDC stated she handed out information to Councilors why the request should be considered. She stated that the award for this project for Luna County was one of 11 agencies awarded. She highlighted the letters of support handed out to Council. She stated that the impact of new and affordable housing development on nearby property values is more likely to be neutral or positive rather than negative. She stated that this program provides home ownership and that the applicant invests sweat equity into owning the property. Ms. Molina stated that the homeowners tend to have a high pride of ownership due to the sweat equity they have put into their homes. She stated that one of the requirements of the program is that the yard be landscaped. Ms. Molina stated that SWRHC assists the homeowner, financially, in building the wall or fence if the owner is not able to complete it within one year of receiving the certificate of occupancy.

Mr. Sera asked what the assurance would be given to Council to ensure that the wall would be built. Ms. Molina stated she would be willing to sign an MOU with the City to ensure this, once the certificate of occupancy is obtained. She stated that the MOU would state if after one year, if the homeowner could not afford to erect a fence, SRHCDC would assist with the costs for a fence.

Mayor Jasso stated he noticed chain link fence in the homes in the area, and asked if it is allowed in the area. Mr. Sera stated it is not allowed in this zoning area. Mayor Jasso asked what kind of fence is being contemplated. Ms. Molina stated that whatever is in compliance with what the City would approve and with the preference of the homeowner.

Mayor Pro Tem Cruz asked if the fence would need to be put up prior to the certificate of occupancy (CO) is issued. Ms. Gentile stated that before the CO is issued, they would inspect for compliance unless there is a variance granted. Mayor Pro Tem Cruz asked if the variance would cause a delay in the fence. Ms. Gentile stated that it can, further stating that Council can issue a variance that the occupant would not need to build a fence, or set a date.

There was discussion about how the variance would work with the certificate of occupancy. Mr. Sera stated that was the reason for the question about assuring that the fence would be built, and that there needs to be some accountability in granting the variance. Ms. Molina stated that she would commit to keeping the money in an escrow account specifically for that purpose.

Mayor Pro Tem Cruz asked for clarification on the lot size discrepancy. Ms. Gentile explained the lot sizes in those areas. She stated that SWRHC was donated 6 of the lots, and to make the properties affordable they want to build on two lots each, which makes them 50 foot lots, and the code requires a 70 foot minimum width. Ms. Gentile explained that other areas do not have the same requirements. Ms. Molina added that some of the previously built homes in different zones have been built on 50 foot by 142 foot lots.

Mr. Foy asked if you turn this situation where they would build on two lots, and another lot was found elsewhere to build the third house, there should not be a problem. Ms. Molina stated that there would be because the closings have already taken place, the appraisals have

happened and have already been underwritten by USDA Rural Development in Washington D.C. and closings at the title company have occurred. Councilor Sanchez asked if that happened before coming to Council. Ms. Molina affirmed, stating that because the land was donated, they found out about the restrictions when they tried to pull the permits. Ms. Molina stated that this situation is occurring only because the appraisals and the approvals from Washington have taken place.

Mr. Sera asked what would happen if Council denies the request. Ms. Molina stated that they would have to re-appraise, which would cost approximately \$1,800 per home. Mr. Foy clarified that it can be done but that it would cost more money. Ms. Molina affirmed, further stating that because the loan has already closed, the families are paying interest on the loan. Ms. Molina stated they have eight months to complete the project. Mayor Pro Tem Cruz clarified that the families already have the loan, and asked what the deadline was for the home to be built. Ms. Molina stated that the average timeframe is 8 months to complete the construction. She noted that if the construction does not meet the deadline, they are considered a high-risk agency, and that could impact their chance of getting funding in the future.

Mayor Jasso asked if any affected parties would like to speak.

Amelia Aguirre, 219 W. Mulberry stated she is in support for affordable housing but if the work was not done prior to making the plans, the residents who are already established in the neighborhood are going to have to adjust the variances and ordinances to fit someone else's error because the work was not done prior to selling. She stated that she would have not purchased her property if she would have known her property had been split. She stated she is not in support of the changes being requested.

Steven Duran, 318 W. Mulberry stated that he is concerned with the density of the neighborhood with the 50 foot lots. He stated that he feels that there would be no room for parking. He stated that he has no problem with the homes being built, as long as they meet and are in compliance with the current requirements.

Fred Rossiter, 300 W. Mulberry stated that he is in agreement with the majority of the other property owners who have spoken. He stated that back in the 70s, when he purchased his property to build his home; he was required to meet all setback requirements and other requirements to assure safety. Mr. Rossiter also stated that he had not objection to the homes being built, as long as they meet the required current codes.

Mayor Pro Tem Cruz asked Ms. Molina for clarification of how they came to the decision of building 3 homes on the donated property. Ms. Molina stated that based on the survey and appraisal, it was determined by the SRHCDC that they would be able to build 3 homes on the donated property using 50 feet by 142 feet lots. Mayor Pro Tem Cruz asked what would happen if they only built 2 homes on this property instead of 3 homes. Ms. Molina stated that that could happen, however, the property would have to be resold as 2 lots and that would cause a delay for the current homeowners, who have already purchased the lots.

Mayor Jasso asked if any other affected parties who would like to speak.

Joe “Butter” Milo, 315 W. Mulberry Street, stated that his main concern is the Planning and Zoning of the ordinances and zoning for certain areas of town. He stated that when he built his home he was required to comply with codes and ordinances. He stated he has no objection with the affordable housing, as long as they comply with codes and ordinances.

Rebecca Rossiter, 300 W. Mulberry stated that she has turned in a petition of the residents who are in opposition of the variance.

Mayor Jasso closed the public comments and brought the hearing back to the Council. He asked Council if they were prepared to make a motion or if they would like to go into closed session under NMSA 1978 10-15-1 (H)(3).

Councilor Sanchez moved to go into closed session. Mayor Pro Tem Cruz seconded the motion; motion carried by the following roll call vote:

Councilor Milo recused himself from voting on this item.

**ROLL CALL VOTE**

Councilor Rincon	Aye
Councilor Sanchez	Aye
Mayor Pro Tem Cruz	Aye

Mayor Jasso entertained a motion to go back into open session.

Councilor Sanchez moved to go back into open session. Mayor Pro Tem Cruz seconded the motion; motion carried with the following roll call vote:

**ROLL CALL VOTE**

Councilor Rincon	Aye
Councilor Sanchez	Aye
Mayor Pro Tem Cruz	Aye

Mayor Jasso stated for the record that no action was taken in closed session and only the items mentioned in the motion to go into closed session were discussed.

Mayor Jasso entertained a motion from Council.

Mayor Pro Tem Cruz moved to deny the variance request for a variance on lots, size, width, and fencing requirement in the A-3 Zone at 1508 S. Iron Street. Councilor Sanchez seconded the motion; motion carried by the following roll call vote:

**ROLL CALL VOTE**

Councilor Rincon	Aye
Councilor Sanchez	Aye

Mayor Jasso announced that the decision by the authority will be effective after the written order is executed and filed with both the Municipal and County Clerks. He went on to say that any action of the City Council in approving, conditionally approving or denying this application may be appealed to the District Court 15 calendar days after the date of this action by the applicant, any aggrieved person, by any member of the City Council, or by the City Administrator.

c. The third hearing, a variance request for a Request for a Variance from Southwest Regional Housing for variances on lots size, width and fencing requirement in the A-3 zone at 1518 S. Iron Street, was called to order. Mayor Jasso confirmed that the legal notices were properly posted by the secretary and swore in all parties who would be giving testimony.

He confirmed with Council that there were no abstentions, ex-parte contacts, no conflicts of interest.

Councilor Milo recused himself for this item.

Ms. Gentile, Planner, stated that this case is a variance request for the lots at 1518 S. Iron Street. She stated that the variance is for lots size, width and fencing. The applicant is requesting a 50 foot width lot, 7100 square feet in area, to be granted a waiver to not be required to construct the required fencing in this zone. She stated that the Planning and Zoning Commission has recommended denial of the request, staff has not technical objections to the request. Ms. Gentile stated that Council's options would be to approve, deny, or table the motion.

Mayor Jasso asked if there were any questions of staff by any Council member.

Mayor Jasso asked if the applicant/agent would like to make a statement. Ms. Molina asked that her comments from the previous case be adopted for this case.

Mayor Jasso asked if there were any affected parties who would like to speak. All effected parties from the previous cased asked that their comments be adopted for this case.

Mayor Jasso asked if any other persons would like to speak. There were none.

Mayor Jasso closed the public comments and brought the hearing back to the Council. He asked Council if they were prepared to make a motion or if they would like to go into closed session under NMSA 1978 10-15-1 (H)(3).

Mayor Pro Tem Cruz moved to deny the variance request for a variance on lots, size, width, and fencing requirement in the A-3 Zone at 1508 S. Iron Street. Councilor Rincon seconded the motion; motion carried by the following roll call vote:

#### ROLL CALL VOTE

Mayor Pro Tem Cruz	Aye
Councilor Sanchez	Aye
Councilor Rincon	Aye

Mayor Jasso announced that the decision by the authority will be effective after the written order is executed and filed with both the Municipal and County Clerks. He went on to say that any action of the City Council in approving, conditionally approving or denying this application may be appealed to the District Court 15 calendar days after the date of this action by the applicant, any aggrieved person, by any member of the City Council, or by the City Administrator.

d. The fourth hearing, a variance request for a Request for a Variance from Southwest Regional Housing for variances on lots size, width, side setback and fencing requirement in the A-3 zone at 1522 S. Iron Street, was called to order. Mayor Jasso confirmed that the legal notices were properly posted by the secretary and swore in all parties who would be giving testimony.

He confirmed with Council that there were no abstentions, ex-parte contacts, no conflicts of interest.

Councilor Milo recused himself for this item.

Ms. Gentile, Planner, stated that the case is for a variance request at 1522 S. Iron. She stated that the applicant is asking for a variance for the lot width, the area, the fence requirement and side setback. She noted that the applicant is asking for a 50 foot width, 7100 square feet as opposed to a 70 foot and 9000 square foot lot. She also stated that the applicant is requesting a 5 foot setback variance, as opposed to the 15 ft. required side setback. Ms. Gentile also stated that they are asking for a variance on the fencing requirement in this zone. She stated that the Planning and Zoning Commission recommended denial of the request and that staff has no technical objection to this request. Ms. Gentile stated that Council's options are approval, denial, or tabling the motion. She went on to say that this case is very similar to the previous two cases with the exception of the side setback variance request.

Mayor Jasso asked if there were any questions of staff by any Council member.

Mayor Jasso asked if the applicant/agent would like to make a statement. Ms. Molina asked that her comments from the previous case be adopted for this case.

Mayor Jasso asked if there were any affected parties who would like to speak. All effected parties from the previous cased asked that their comments be adopted for this case.

Mayor Jasso asked if any other persons would like to speak. There were none.

Mayor Jasso closed the public comments and brought the hearing back to the Council. He asked Council if they were prepared to make a motion or if they would like to go into closed session under NMSA 1978 10-15-1 (H)(3).

Mayor Pro Tem Cruz moved to deny the variance request from Southwest Regional Housing for variances on lots size, width, side setback and fencing requirement in the A-3 zone at 1522 S. Iron Street. Councilor Sanchez seconded the motion; motion carried by the following roll call vote:

**ROLL CALL VOTE**

Councilor Rincon	Aye
Councilor Cruz	Aye
Councilor Sanchez	Aye

Mayor Jasso announced that the decision by the authority will be effective after the written order is executed and filed with both the Municipal and County Clerks. He went on to say that any action of the City Council in approving, conditionally approving or denying this application may be appealed to the District Court 15 calendar days after the date of this action by the applicant, any aggrieved person, by any member of the City Council, or by the City Administrator.

**12. Administrator's Report**

Mr. Sera addressed the following items in his report:

- He mentioned the recently approved Capital Outlay projects being the West Side Florida Street Walking path, which will run west on Florida Street, from Hwy 11 to 8<sup>th</sup> Street. The submitted request for this project was \$225,000 and the City was awarded \$150,000. The other awarded request was in the amount of \$250,000 for road construction. He noted that the funds will be used to continue to work on the roads. Another requested was for the Cedar Street connection study at \$180,000, which was not awarded. That was line itemed vetoed by the Governor.
- A joint request, with Luna County, was submitted for a corridor study for the Truck Bypass Route due to the expansion of the port of entry. This request was not awarded.
- He mentioned that with the election being over, he would like to commend staff. He noted that it is a long process, and staff did an excellent job of pulling it all together.
- Working on presentations for the budget workshop. Lots of items to talk to Council about on how to move forward.
- Conducting rate analysis; numbers are looking good for water, sewer and solid waste. Laura and Aaron still compiling more data to work on the gas rate analysis, to present at the Budget Workshop.
- Continue to work on Gross Receipts Tax analysis. Continue to see a steady downward trend of Gross Receipts Tax.
- Contract cancelled with the Visitor's Center. A verbal agreement with MainStreet to assist

with the operations of the Visitor's Center, along with the Chamber of Commerce's assistance. Looking forward to getting a formal agreement in place. A brief discussion was entertained regarding the Visitor's Center staff.

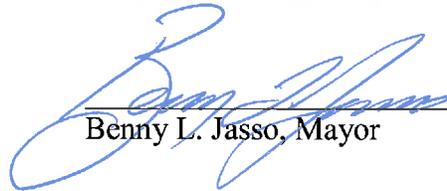
A brief discussion was entertained between staff and Council regarding the Hold Harmless Tax distribution.

### 13. Adjourn Meeting

With no further business to discuss, Councilor Sanchez moved to adjourn the meeting. Councilor Milo seconded the motion; motion carried unanimously. Meeting adjourned at 8:53 p.m.



CITY OF DEMING, NEW MEXICO

  
Benny L. Jasso, Mayor

ATTEST:

  
Aaron Sera, Clerk

# *Proclamation*

## **Marilyn “Muggs” Johnson Day**

**WHEREAS**, Muggs Johnson dedicated her entire 34 year career as a nurse to the residents of Mimbres Memorial Nursing Home in Deming, New Mexico serving from January, 1982 to January, 2016;

**WHEREAS**, Muggs Johnson upheld a standard of excellence for the residents of Deming and Luna County who were placed in long term care, treating all with dignity and like family; and

**WHEREAS**, Muggs Johnson, impacted a community of nurses, certified nursing assistants, physicians and administrators leaving all she came in contact with better off for having known her; and

**WHEREAS**, Muggs Johnson encouraged continued education through the donation of an annual scholarship to Luna County students seeking education in a healthcare field; and

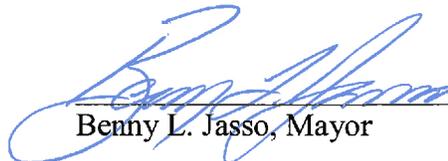
**WHEREAS**, Muggs purchased televisions, books and equipment for recreational and quality of life programs for the residents of Mimbres Memorial Nursing Home;

**WHEREAS**, Muggs insured family and friend correspondence for the residents was kept current; and

**NOW THEREFORE**, I Benny L. Jasso, Mayor of the City of Deming, do hereby proclaim May 12, 2016 as a day to honor Marilyn “Muggs” Johnson, for living up to the *Florence Nightingale Oath* she took when becoming a nurse in 1982 and spending each day of her career in service to the residents at Mimbres Memorial Hospital and Nursing Home.

**DONE** this 14<sup>th</sup> day of March, 2016 in the City of Deming, New Mexico.

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor



ATTEST:

  
Aaron Sera, Administrator/Clerk

*Proclamation*  
*World Down Syndrome Day*

**WHEREAS**, there are an estimated 6 million people with Down Syndrome in the world today, and

**WHEREAS**, despite dramatic increases in lifespan and intellectual ability in the U.S., there is still much work to be done regarding the rights to equality, inclusion, education, medical care, research, and support for people with Down Syndrome in the U.S., and

**WHEREAS**, starting in Singapore in 2006, the date 3-21 has come to represent 3 copies of chromosome 21 and has developed into a movement to celebrate and value people with Down Syndrome around the world, and

**WHEREAS**, through public awareness, the City of Deming celebrates the hard work and progress made by parents, medical professionals, researchers, educators, and non-profit organizations, and

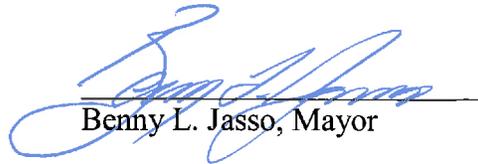
**WHEREAS**, the City of Deming joins the State of New Mexico, the United States, the United Nations, and over 191 other countries in celebrating and valuing the lives and equality of people with Down syndrome.

**NOW THEREFORE**, I Benny L. Jasso, Mayor of the City of Deming, do hereby join in the proclamation of naming March 21, 2016:

*World Down Syndrome Day*

**DONE** this 14<sup>th</sup> day of March, 2016 in the City of Deming, New Mexico.

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

  
Aaron Sera, Clerk



**AR DM 12-32**  
**AN ADMINISTRATIVE REGULATION GOVERNING**  
**Establishment of Amended Pay Plan**  
*(This revision replaces the previously issued AR DM 12-32 dated 5-17-13)*

**SECTION ONE:** All activities conducted under this regulation shall be conducted in accordance with the City of Deming Personnel Policies and Procedures Manual, Administrative Regulations, and the Deming City Code.

**SECTION TWO: Purpose:** The purpose of this regulation is to establish an amended City of Deming Pay Plan and to integrate it with the Performance Assessment System.

**SECTION THREE: Pay Plan Amended**

Effective immediately, the City of Deming Pay Plan will be amended and/or changed as follows:

1. Established Job Salary Ranges will remain the same.
2. Steps are eliminated.
3. The Pay Plan will change to a Minimum – Maximum scale within each established Range as shown in the attached Pay Schedule. The Pay Schedule will be periodically amended and incorporated by reference.
4. Employees will move within the Range scale based on Periodic Range Adjustments and annual performance assessments related merit increases.

**SECTION FOUR: Periodic Range Adjustments**

The City of Deming will periodically adjust Range Minimums and Maximums only when needed to keep wages competitive with the local market.

**SECTION FIVE: Merit Increases**

1. Employees will be evaluated on performance annually using the Performance Assessment System as outlined in AR DM 12-31.
2. Annually, based on the City's economic situation and forecast, and upon recommendation by the City Administrator, City Council will determine a percentage rate to be used for the annual merit increase. Using this authorized percentage, employee merit increases will be awarded and provided to employees by memo. Employee merit increases may be suspended or frozen by the City Administrator, with approval of City Council, in times of economic crisis or for budgetary reasons.
3. Exclusions from Merit Pay:
  - a. Probationary employees and employees without a full year of continuous service at the annual evaluation (March 1) will not receive a merit increase.
  - b. An employee may not receive a merit increase that will take the employee above the maximum of his/her Pay Range.

Approved:

  
\_\_\_\_\_  
Aaron Sera, City Administrator

Date 3-21-16

NOTE: In some cases, applicable Negotiated Bargaining Agreements may conflict with the City of Deming Administrative Regulations. In these cases, the negotiated bargaining agreements would take precedent.

**AR DM-08-05**  
**AN ADMINISTRATIVE REGULATION GOVERNING**  
**LEAVE**  
**(Supersedes AR DM08-05 dated February 29, 2012)**

**SECTION ONE:** All activities conducted under this regulation shall be conducted in accordance with the City of Deming Personnel Policies and Procedures Manual (PPPM) and Deming City Code.

**SECTION TWO:** Employees may be granted time off with pay in accordance with the following guidelines:

1. To be eligible for leave benefits an employee must be on a regular full-time basis. Regular part-time employees will be eligible for prorated benefits as outlined in PPPM Section 4.8.2.
2. Employees shall not be eligible for the utilization of annual leave and sick leave benefits while they are on probationary status. To be eligible for utilization of annual leave and sick leave, an employee must have completed their probationary period. When such employees become regular non-probationary full-time or part-time, the employees will be credited with annual leave and sick leave retroactive to their date of hire and may request and, if approved, utilize such leave. Part-time employees' annual leave and sick leave accrual will be pro-rated on the average number of hours worked in a twelve (12) month period.
3. A leave of absence with or without pay is an authorized absence from regularly scheduled work approved by the City Administrator.
4. Absence without leave (AWOL) is an unauthorized absence from work that produces cause for disciplinary action.
5. Short or Long term leaves of absence without pay (LWOP) may be granted by department heads after approval by the City Administrator.
6. Annual leave and sick leave are not time worked and will not be considered time worked in the computation of overtime.
7. The Payroll Clerk shall be responsible for the maintenance of accurate leave records. Each department must submit for recording such leave information as may be required for each employee. Such records shall be kept on forms prescribed by the City Administrator.
8. The City expects all employees to work every scheduled shift unless absence has been authorized by the immediate supervisor, department head, or the City Administrator as provided in these policies.
9. It is recognized that there may be extenuating circumstances for some authorized absence and consideration, as determined by management, to be given in such cases.
10. It is City policy to advise employees and assist them in overcoming personal problems which may be causing excessive absenteeism and, when such efforts fail to stop unauthorized absences, to invoke appropriate corrective disciplinary action.
11. **CHRONIC ABSENTEEISM:** In instances of chronic absenteeism, and when an employee's employment record reveals a history of absences that demonstrate an obvious problem, the employee may be subject to disciplinary action, up to and including termination.
12. An employee who is absent from duty without prior approval shall receive no pay for the duration of the absence, may be charged as AWOL and subject to appropriate disciplinary action.

13. Failure of an employee to report to work at the expiration of an authorized leave or failure to request and obtain approval of an extension of such leave prior to the expiration of an authorized leave may be considered just cause for termination.

14. If the employee is frequently tardy, the supervisor will discuss the problem with the employee and plan corrective steps or disciplinary action to be taken.

15. Employees are expected to obtain prior permission to be absent from work or to leave the worksite. In the event an employee is prevented from requesting a leave of absence due to a sudden and serious personal or family illness or being unable to use a telephone he/she will be expected to call the City Administrator, Department Head, or direct supervisor at the first possible opportunity. Failure to do so will result in being charged with an unexcused absence and possible disciplinary action.

16. Employees will identify situations that fall under the Family and Medical Leave Act (FMLA) when requesting leave. Requests for any leave that fall under the FMLA program (such as caring for a family member with a serious medical health condition or military entitlements), will comply with documentation requirements under that program.

17. Subsequent changes for approved leave requests will require department head approval.

**SECTION THREE: ANNUAL LEAVE.** It is the policy of the City to promote employee efficiency, health and morale through periodic rest from their duties, by means of paid annual leave.

1. At the beginning of each fiscal year, employees will pre-schedule all annual leave they intend to take during the coming year. Supervisors will use this pre-schedule to determine workload and resolve conflicts that may be evident. Employees with the most seniority will take precedent if a conflict is determined. Supervisors, taking into account minimum-staffing needs, will tentatively approve pre-schedules no later than July 31 of each year. For Payroll purposes, a leave slip will still need to be presented by the employee and signed by the supervisor prior to taking the pre-scheduled time.

a. Annual leave will be prescheduled to assist in workload planning.

b. All employees shall be expected to use at least one (1) week of annual leave each 12 month period, subject to work requirements of the City. The remainder shall be available for use subject to the appropriate request and approval requirement and work requirements of the City.

c. Not more than 240 hours of accrued annual leave may be carried forward into a new fiscal year for forty (40) hour work week employees. Police officers who work a 42 hour workweek may carry over 252 hours of annual leave. Firefighters who work a 53 hour workweek may carry over 318 hours of annual leave. Exceptions may be granted by the City Administrator.

2. Employees that will accumulate more than the maximum hours of annual leave (use or lose) in the year, should schedule and take any leave over and above the maximum hours or they will lose it on July 1 of the following fiscal year. It is the responsibility of the employee to track their use. Employees with use or lose annual leave should not wait to take use or lose leave until the last month of the fiscal year as workload may prevent their being able to do so. Failure to take the use or lose time will result in a forfeiture of the leave at the end of the year. Forfeited leave will be transferred to the City of Deming Humanitarian Leave Pool.

3. For leave that is not pre-scheduled in July, annual leave will be granted on a first come first serve basis as workload allows.

4. Annual leave dates shall correspond with the employee's work schedule. For example if an employee is scheduled to work Monday through Friday, his/her annual leave will be paid only for scheduled workdays.

5. Annual leave shall be charged in no less than multiples of one (1) hour.

6. Requests for annual leave must be submitted to the employee's immediate supervisor. Approvals by the supervisor shall be determined by considering the desires of the employee, the allocated time for the scheduling of annual leave, and the requirements for the delivery of services to the public.

7. No employee shall be granted more annual leave than has been credited to his/her account at the start of the leave period.

8. No employee will request more annual leave than will be accrued for that date. Any time taken over an employee's annual leave balance will be deemed unauthorized, will be unpaid, charged as AWOL and subject to disciplinary action up to and including termination. It is the employee's responsibility to monitor their personal leave balances.

9. Annual leave benefits will not be paid in addition to worker's compensation benefits.

10. Upon separation, an employee shall be paid for the unused portion of his accrued annual leave.

11. Effective 1/2/2010, Annual leave benefits for eligible employees will be accrued in accordance with the following:

a. REGULAR EMPLOYEES (fulltime 40 hr workweek):

Years of Service	Hours Earned Annual	Weeks Per Year
0-3	80	2
4-7	96	2.4
8-11	120	3
12-15	144	3.6
16+	160	4

b. Non-union police (lieutenants) or fire employees (on probation), in excess of 40 hours work week will be computed pro-rata.

c. Regular part-time employees who work an average of twenty five (25) hours per week or more or a total of 1300 hours annually will accrue six (6) days of annual leave per year.

d. Regular part-time employees who work an average of thirty-two (32) hours or more per week or more than 1664 hours annually will accrue eight (8) days of annual leave per year.

e. Temporary/casual/intern employees will not be eligible for annual leave benefits.

f. Probationary employees will accrue annual leave benefits retroactive to their date of hire but may not utilize such until after completion of probation.

12. Hourly Employees Purchase Leave Time (EPLT) Program. The Hourly Employees Purchase Leave Time Program is designed to provide additional paid time off to eligible employees who need or desire extra days beyond their normal paid leave time accrual. This program enables hourly employees to purchase additional leave time without being financially impacted all at once. Approval for participation in the EPLT leave program is at the discretion of the City Administrator

and subject to workload constraints. Additional Hourly EPLT Program information is contained in AR 09-23.

**SECTION FOUR: SICK LEAVE.** Sick leave may be authorized when an employee is incapacitated by sickness or injury, for medical, dental or optical diagnosis or treatment; when the employee's attendance at duty jeopardizes the health of others, or for the care of immediate family members in the event of serious illness as per the FMLA. It is the responsibility and obligation of management to verify that sick leave is being utilized for authorized purposes. Failure on the part of the employee to cooperate fully and completely in any investigation or verification of the use of sick leave shall result in the denial of paid leave and may result in disciplinary action including termination of employment.

1. Bargaining unit employee's sick leave accrual and procedures will be subject to terms contained in the collective bargaining agreement.
2. For the purpose of this section, immediate family shall be considered to include husband, wife, mother, father, mother-in-law, father-in-law, son, daughter, brother, or sister.
3. Employees who are absent three (3) consecutive days or more because of personal illness or personal injury must present a statement from a medical physician (chiropractor, licensed clinical practitioner) explaining and justifying the absence. In special cases and/or in cases where a pattern of sick leave abuse is suspected, management may request a medical statement for any absence. In any case, employees must present a medical statement after any consecutive and unscheduled, three-day absence that includes sick leave.
  - a. Requests for sick leave that fall under the FMLA program (such as caring for a family member with a serious health condition or military entitlements), will comply with the request and documentation requirements under that program. (See DM10-28, Family Medical Leave Act)
4. **REQUESTING SICK LEAVE.** A written request is required indicating duration and dates of departure and return. All leaves are subject to appropriate approval prior to any absence from duty.
  - a. In the case of a sick leave emergency, the employee is required to notify the supervisor as close as possible to the beginning of the employee's work shift, on each day of absence. The leave form shall be completed by the employee and submitted for approval as soon as possible upon return.
5. **ACCRUAL.** Effective 1/2/2010, provided they are otherwise eligible, regular employees shall accrue paid sick leave benefits of 80 hours a year.
  - a. Regular part-time employees who work an average of twenty five (25) hours per week or more or a total of 1300 hours annually will accrue six (6) days of sick leave per year
  - b. Regular part-time employees who work an average of thirty-two (32) hours or more per week or more than 1664 hours annually will accrue eight (8) days of sick leave per year.
  - c. Non-union police (Lieutenants) or fire employees (on probation), in excess of 40 hours work week will be computed pro-rata.
  - d. Temporary/casual/intern employees will not be eligible for sick leave-benefits.
  - e. Probationary employees will accrue sick leave benefits retroactive to their date of hire but may not utilize such until after completion of probation.

6. SICK LEAVE SELL BACK/CONVERSION. (NOTE: Due to budgetary constraints, this benefit may be temporarily suspended at the discretion of the City Council. Employees will be notified in advance should this occur.)

b. Effective 1/2/2010 all employee's current balance of sick leave will be moved to a separate account identified as "OLD". Sick leave accrued after 1/2/2010 will be in a separate account identified as "NEW".

c. If an employees total balance of "NEW" and "OLD" sick leave exceeds 300 hours on May 1<sup>st</sup> of each year, "OLD" sick leave hours, eligible to be sold, may be sold back/converted to regular pay at a rate of 2 for 1. There will be no sellback or conversion of "NEW" sick leave hours.

d. Employees must apply prior to May 1st each year for such conversion and shall be paid the first pay period in June if the sell back/conversion has not been suspended.

7. The "OLD" account of accrued sick leave will be used prior to accessing or using any of the "NEW" sick leave accrued after 1/2/2010

8. MAXIMUM ACCRUAL. Effective 1/2/2010, employees may accrue unlimited hours of "NEW" sick leave.

9. When sick leave benefits have been exhausted, employees may request approval to use accumulated paid annual leave.

10. Sick leave benefits will not be paid for absences on authorized holidays or any other non-scheduled work days.

11. Sick leave benefits will not be paid in addition to worker's compensation benefits.

12. Sick leave hours shall not be paid to any employee who terminates his/her employment except as noted in the following:

a. On retirement under any plan of the PERA an employee may convert any unused "OLD" sick leave accrued prior to 1/2/2010 to annual leave and be paid for such at the regular rate of pay. Such elections must be made in writing within thirty (30) days from date of termination. "NEW" sick leave accrued after 1/2/2010 shall not be converted or paid to any employee at termination or at retirement.

13. Bargaining Unit Police Officers and Firefighters: Negotiated Bargaining Agreements shall take precedent when in conflict with these administrative orders.

**SECTION FIVE.** MILITARY LEAVE: An employee who is a member of any of the reserve components of the United States Armed Forces or the New Mexico National Guard will be granted leave as required by State and Federal Law.

**SECTION SIX.** BEREAVEMENT LEAVE: In the event of death in the immediate family (husband, wife, mother, father, mother-in-law, father-in-law, son, daughter, brother, or sister), a regular employee may be granted emergency leave with pay not to exceed five (5) working days per occurrence. If the funeral services are to be conducted in Deming or within 150 miles of Deming, no more than two working days shall be granted for emergency leave. The City may approve additional leave or sick leave in unusual cases.

**SECTION SEVEN.** MATERNITY LEAVE: Request for maternity leave shall be treated as any other request for disability leave in accordance with local policy, State, and/or Federal Law.

**SECTION EIGHT: DOMESTIC ABUSE LEAVE:** An employee may request intermittent accrued annual or unpaid leave, up to fourteen (14) days in any one calendar year, to obtain or attempt to obtain an order of protection or other judicial relief from domestic abuse or to meet with law enforcement officials, to consult with attorneys or district attorneys' victim advocates or to attend court proceedings related to domestic abuse of an employee or an employee's family member. An employee shall give notice to the employer within twenty four hours of commencing the domestic abuse leave. The City of Deming will require verification of the need for domestic abuse leave and employee shall provide such documentation as stated by law. (See AR 09-24, Domestic Abuse Leave Policy)

**SECTION NINE. UNPAID LEAVES OF ABSENCE:** Authorized absence from work without pay.

1. The City Administrator may grant a regular employee leave without pay for a period not to exceed one (1) year. Approval of unpaid leaves of absence, regardless of duration, is at the sole discretion of the City Administrator.
2. Leaves without pay may be granted only when it is in the interests of the City to do so and the employee has demonstrated a need for time off.
3. During an employee's approved leave of absence, his/her position may be filled by a temporary appointment, a temporary promotion, or a regular appointment or promotion.
4. At the expiration of a leave without pay, the employee may be reinstated in the position he/she vacated if the position is available. If not, he/she may be offered another vacant position provided he/she is qualified to perform the work. If no positions are available for which he/she is qualified, normal lay-off procedures (City of Deming Personnel Policies and Procedures Manual, Section 6.7) shall be utilized to determine the employee's status.
5. Approved leave without pay of more than 30 days shall constitute a break in service. Any leave without pay shall *not be* subject to any leave accrual benefits.
6. Continuation of Insurance Benefits: Other than approved Family Medical Leave (FMLA) and short term (less than 30 calendar days) Military Leave, the State of NM Anti-Donation Act precludes the City from making a contribution towards a non-working employee's insurance premiums. Therefore, if an employee is on LWOP that is not FMLA or short term Military Leave, the employee is required to pay both the employee and the City's share of premiums to maintain coverage. If an employee is on approved FMLA or short term Military Leave, and using LWOP, the employee is required to pay only the employee share of premiums to maintain coverage.
  - a. City of Deming employees covered under the State of New Mexico Group Insurance, and taking Leave Without Pay are required to pay premiums by the end of the pay period in which they are due, in order to keep the group insurance in effect.

**SECTION TEN. HOLIDAYS:** Paid days without work in conjunction with city designated holidays.

1. Holidays are observed by the City and un-worked holiday pay shall be granted to regular full-time, part-time, and probationary employees, if they are otherwise eligible.
2. Holiday schedules shall be approved each year by the City Council during the month of December or January.
3. Regular full-time, part-time and probationary employees who are required to work on recognized holidays shall be paid their regular pay and in addition, one and one-half (1-1/2) times their regular hourly rate of pay for the hours actually worked on the holiday, provided the employee completes his regular work hours of forty (40) hours.

4. Temporary employees and other employees who do not qualify for holiday pay under these rules and who are required to work on an observed holiday shall be paid at their regular straight time rate up to and including eight hours of time worked. They will also be paid one and one-half (1-1/2) times their straight time rate for time worked in excess of eight (8) hours on a recognized holiday, provided the employee completes his regular work hours of forty (40) hours.
5. In order to qualify for un-worked holiday pay an employee must work the last scheduled shift prior to and the first scheduled shift following a holiday, unless he/she is on previously scheduled and approved paid leave. An employee who does not work before and after a holiday due to taking unscheduled leave, an unauthorized absence, absence without leave (AWOL) or authorized leave without pay (LWOP) shall not be entitled to un-worked holiday pay.

**SECTION ELEVEN. JURY DUTY, WITNESS PAY, AND CIVIL PREP DUTY:** On days he/she would otherwise have worked, an employee shall be given necessary time off without loss of pay for jury duty or for witness duty when testifying on behalf of the City. Any other witness duty the employee may utilize accrued annual leave or leave without pay.

1. Fees received for jury duty (other than meal or travel allowances) shall be returned to the City.

**SECTION TWELVE. TIME OFF TO VOTE:** An employee may be paid up to two hours for the purpose of voting in national, state, or civic elections provided the employee's workday begins less than two (2) hours after the opening of the polls and the end of the employee's workday is less than three (3) hours from the closing of the polls. Such time shall be scheduled by management, shall be used only for voting. The employee must be an eligible voter. The City may require verification that the employee voted. Misuse of this time will result in disciplinary action.

**SECTION THIRTEEN. NO FAULT ABSENCES:** The City Administrator may excuse employees from duty for the normal work day or portions thereof with pay in emergency situations such as extreme weather conditions; disaster such as fire, flood, or other natural phenomena which prevent employees from working or reporting to work; breakdown of machines; and emergency rescue or protection work.

**SECTION FOURTEEN. HUMANITARIAN LEAVE POOL.** A Humanitarian leave pool is available to employees who have exhausted all paid leave due to a non-work related, extended and documented illness, injury or maternity.

1. **DONATIONS OF LEAVE.** City employees may voluntarily donate accrued annual leave to the Humanitarian Leave Pool.

a. Undesignated annual leave hours will be kept in the Humanitarian leave "pool" to be used as determined by the City Administrator or his designee.

b. City employees may also *designate* a donation to a currently eligible recipient of leave, using sick or annual leave.

1) An employee may not reduce his/her own leave balance below 80 hours, in either sick or annual accounts (160 hours total), when donating designated leave to another employee. Leave donated will be converted to a value based on the donor's hourly rate of pay to hours of leave for the recipient based on the recipient's hourly rate of pay; and unused donated leave at the end of the medical emergency or when no longer needed shall revert to the donating employee(s) on a prorated basis-- converting back to the donor's hourly rate.

2) Designated donated leave will be credited and used by the recipient in the order it is received, for example: Employee A donates leave on January 1, Employee B donates leave on January 3<sup>rd</sup>, etc... All leave donated by employee A, will be used before using leave subsequently donated by employee B, etc.

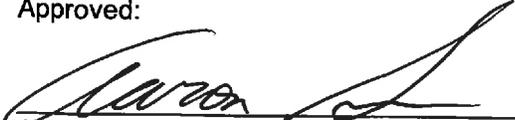
2. **REQUESTING HUMANITARIAN LEAVE.** Employees who have exhausted all paid leave due to a non-work related, extended and documented illness, injury or maternity and wish to access leave donated to the Humanitarian leave pool should contact Human Resources or Payroll for proper request forms and additional information. Request form must be complete and include a certified document by a health care provider that describes the nature, severity and anticipated duration of the emergency medical condition of the recipient and includes a statement by the health care provider that the recipient is unable to work all or a portion of the recipient's work hours. Approval is at the sole discretion of the City Administrator or his designee.
  - a. In order to maximize the donated Humanitarian Leave hours, effective March 12, 2012, employees requesting Humanitarian leave must also apply for short term disability insurance (if eligible) in conjunction with or prior to the processing of the Humanitarian Leave Request.
  - b. The Payroll office will notify City employees, via email and postings that an employee has requested donated leave, and will process donations accordingly.
  - c. Donating employees will complete a standard leave request indicating the designated employee and the type of leave and amount of hours being donated.
3. **HUMANITARIAN LEAVE POOL/UNDESIGNATED HOURS:** An employee, will use designated donated leave first, then may, at the sole discretion and approval of the City Administrator, be granted up to 480 hours of leave from the humanitarian leave pool, if hours are available. The City Administrator will determine the amount of humanitarian leave that may be used by a requesting employee based on the individual situation, the number of hours remaining in the pool, time of the year, other employees in need, and other pertinent factors.
  - a. Under extraordinary circumstances and after careful consideration, the City Administrator may allow hours over 480 to be used, based on the individual situation, the number of hours remaining in the pool, time of the year, other employees in need, and other pertinent factors. As the Humanitarian leave pool hours are undesignated, hours utilized are equal, regardless of the hourly rate of the receiving employee.

**SECTION FIFTEEN. ADMINISTRATIVE LEAVE:** Paid leave approved at the discretion of the City Administrator. Administrative Leave allows the employee to be away from work without losing any work-related benefits.

1. Administrative leave may be approved by the City Administrator for the good of the city's service.
2. Administrative leave under this section shall not constitute discipline. During the administrative leave, the employee shall not attend his regular work site, except as designated in the notice of administrative leave, but shall remain available during normal work hours to meet with the City Management as requested.
3. If an employee is under an internal investigation, the City Administrator may, at his discretion, temporarily reassign the employee to another position and/or department in lieu of the employee being placed on paid Administrative Leave, until such time the internal investigation is complete.
4. When it comes to the attention of the City Administrator that an employee has been charged with a crime which is a felony under the laws of the state wherein the charges are brought, the City Administrator may, upon determining that it is in the best interests of the City in order to protect and maintain the public's confidence and trust in city government, place the employee on **unpaid** administrative leave or reassignment pending the outcome or disposition of the criminal charges. To maintain City benefits, employees in this situation will remain responsible for their share of benefit payments.

5. The basis for determination to place an employee on administrative leave shall be documented in writing and shall be submitted to the employee and to the human resources director either a the time of or within 24 hours of the commencing of the administrative leave.

Approved:

  
\_\_\_\_\_  
Aaron Sera, City Administrator

3-21-16  
\_\_\_\_\_  
Date