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CITY COUNCIL MEETING

AGENDA

July 11, 2016
6:00 P.M.

Call to Order/Pledge of Allegiance

1. Consent Agenda
 - A. Minutes – City Council Meeting 06/13/16
 - B. Minutes – Airport Commission Meeting 06/14/16
 - C. Minutes – Planning & Zoning Commission 06/27/16 (*Recommendations to be presented later in meeting as Quasi-Judicial Public Hearings*)
 - D. Marshall Memorial Library Board Meeting 06/28/16
2. Public Forum
3. Oath of Office-Swearing in of Firefighters Pedro Orosco and Alexander Maynes
4. Approval of Memorandum of General Agreement Between City of Deming and Town of Silver City Regarding Mutual Building Code Enforcement Services
5. Update on the NM CAP Entity by Anthony Gutierrez, Executive Director
6. Resolution to Consider the Approval of the Service Agreement Between the Southwest New Mexico Council of Governments (SWMCOG) and the City of Deming
7. Approval of Landfill Use Agreement Between the City of Deming and Hidalgo County
8. Bids:
 - a. Bid #16-09-Mobile Home Rental Proposal 695 Skyview Road SW
9. Opening of Quasi-Judicial Public Hearings
 - a. Quasi-Judicial Public Hearing to Consider a Replat of Lots 45-48 of Idyl Wyld Addition at the Southwest Corner of Poplar and Santa Barbara Street.
 - b. Quasi-Judicial Public Hearing to Consider a Request a Special Use Permit for a Residential use in the Industrial Zone at 1455 Peru Mill Road.
10. Administrator's Report
11. Closed Session to Discuss the Purchase, Acquisition or Disposal of Real Property Pursuant to NMSA 1978 Section 10-15-1 (H)(8) of the Open Meetings Act
12. Adjourn Meeting

The next regular City Council Meeting is scheduled for August 8, 2016 at 6:00 p.m.

CITY COUNCIL MEETING MINUTES July 11, 2016

Council Present: Benny L. Jasso, Mayor
Roxana Rincon, Councilor

Joe “Butter” Milo, Councilor
David L. Sanchez, Councilor

Council/Staff Absent: Dr. Victor Cruz, Mayor Pro Tem
Laura Holguin, Treasurer

Staff Present: Aaron Sera, City Administrator
Jim Massengill, Public Works Director
Bryan Reedy, Community Svcs. Director
Gina Gentile, City Planner

Raul Mercado, Fire Chief
Bobby Orosco, Police Chief
Heather Sosa, Fire Battalion Chief

Recording Secretary: Lila Jasso, Administrative Secretary

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

1. Consent Agenda

Mr. Sera called attention to Item C. Minutes—Planning & Zoning Commission 05/16/16. He stated that at the Council would only be approving minutes and that the recommendations of that meeting would be presented later in this meeting as a Quasi-Judicial Public Hearing.

Councilor Milo moved to approve the Consent Agenda as presented. Councilor Sanchez 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:

- Edward Khanbabian, 1721 E. Pine St.
- Larry Caldwell, 711 N. Zinc St.
- Laurie Findley, 800 E. Pine St.-Visitor Center, MainStreet, Chamber of Commerce

3. Oath of Office-Swearing in of Firefighters Pedro Orosco and Alexander Maynes

Mayor Jasso swore in both firefighters Orosco and Maynes.

4. Approval of Memorandum of General Agreement Between City of Deming and Town of Silver City Regarding Mutual Building Code Enforcement Services

Mr. Sera presented the Memorandum of General Agreement Between City of Deming and Town of Silver City. He compared this agreement to the previously passed agreement

between the City of Deming and Town of Mesilla. Mr. Sera went on to state that in this agreement, Ms. Gentile will spend 1 day a week for the remainder of the year, in Silver City to provide building official services. He went on to say that the agreement would be for a four-year term. Mr. Sera explained that CID (Construction Industries Department) requires that each municipality has to have a certified building official in order to perform building inspections. He went on to say that Ms. Gentile has this certification and is one of the only people in our region with this certification. Mr. Sera stated that CID later allowed for the use of Memorandums of Agreement between municipalities to utilize the certified building officials between more than one municipality. He stated that this would allow for Ms. Gentile to go over to Silver City and perform these services, and that the Town of Silver City would reimburse Deming for wages and any other expenses incurred by this service. Mr. Sera went on to explain that the language within the agreement is directly from CID.

Councilor Milo and Councilor Sanchez had questions regarding the duties to be performed and travel to Silver City. Mr. Sera reiterated that the Town of Silver City would reimburse Deming for expenses incurred by Ms. Gentile traveling to Silver City to provide these services.

Councilor Sanchez moved to approve the Memorandum of General Agreement between the City of Deming and Town of Silver City regarding mutual building code enforcement services, as presented. Councilor Rincon seconded the motion; motion carried unanimously.

5. Update on the NM CAP Entity by Anthony Gutierrez, Executive Director

Mr. Gutierrez commented on the executive meeting that was conducted earlier this day. He gave a brief history of the NM CAP Entity. He stated that the NM CAP Entity is attempting to do is form the NM Unit which will actually be the mechanism by which we divert water and exchange with Arizona for the Central Arizona Project waters. Mr. Gutierrez mentioned that the beneficiaries will be the lower Gila Indian Communities and the Lower Gila Communities. He went on to say that the NM CAP Entity was formed in November of 2015, and accepted by the Secretary of Interior in an official capacity. Since then, the NM CAP Entity has asked for the responsibility of the design of a NM Unit. He went on to say that they are in the design phase and have gone through some fast-paced engineering analysis, numerous meetings with the Bureau of Reclamation (BOR), Interstate Stream Commission (ISC), and with the engineers to come up with alternatives to the plan.

Councilor Milo asked if all funds used are federal funds. He went on to explain that the NM CAP Entity does not have any authority to engage in any taxation or authority to pass forward that authority to the Council. Mr. Gutierrez stated that right now they are working off of federal monies and are working on a plan to only use federal monies until they can identify potential revenues after that phase.

Mr. Gutierrez went on to explain the current NM CAP meeting, they approved a preferred action which will go to the BOR to start the NEPA Process and the engineering design for aquifer storage and recovery in the Upper Gila Diversion. He went on to say that they also approved what they call the 2nd phase of this project in which they call the Wind Canyon

Reservoir. The Wind Canyon Reservoir will hold anywhere from 3600 acre feet to 10,000 acre feet of water. Mr. Gutierrez stated that although it is not recognized as being a municipal-type of reservoir, they also included the Spar Canyon Reservoir which is more a long-term, long-range planning that could hold up to 45,000 acre feet of water. He stated that would certainly provide additional municipal water if and when that need or demand arises. Mr. Gutierrez stated that the next steps will be the NEPA process which will include preliminary scoping, open-for-public comment, environmental, cultural and economic analysis done on the project; and eventually have a record of decision done by 2019.

Councilor Milo asked for more clarification about the decision by 2019, to be sure all entities involve are on the same page. Mr. Sera explained that what happened today at the NM CAP Entity Meeting the members voted on a project to move forward with during the environmental study (NEPA). He went on to say that by December 31, 2019, the NEPA study should be done and the Secretary of the Interior should issue a record of decision. Mr. Sera stated that, right now, the members are on board to do what was started with and there is room for expansion to that process regarding aquifer storage and recharge. Mr. Sera stated that at this point they are in the first phase process of this project and it will be a while before they can anticipate revenues from this project. Mr. Gutierrez added that this is the first phase of the plan and that they have proposed a long term plan for water storage.

With no further discussion, Mr. Sera thanked Mr. Gutierrez for the information provided.

6. Resolution to Consider the Approval of the Service Agreement Between the Southwest New Mexico Council of Governments (SWNMCOG) and the City of Deming

Mr. Sera stated that this is an annual agreement which is normally signed, for the services that the SWNM Council of Governments (SWNMCOG) provides to the City of Deming. He stated that SWNMCOG has a very large membership of which Luna County is also a member of. Mr. Sera went on to state that the SWNMCOG is very instrumental in lobbying for the City. He recommended that Council approve the resolution. He read a portion of the agreement into record.

Councilor Milo moved to approve the resolution to approve the Service Agreement between the Southwest New Mexico Council of Governments (SWNMCOG) and the City of Deming. Councilor Rincon seconded the motion; motion carried unanimously.

7. Approval of Landfill Use Agreement Between the City of Deming and Hidalgo County

Mr. Sera stated that this agreement is being brought to Council as the current agreement expired on June 30, 2106. He noted that the new agreement has been modified from the original agreement of 2012. Mr. Sera noted the price of disposal serves will remain at \$22.00 per ton for 6 months, then beginning January 1, 2017, the fee shall increase to the current rate per ordinance of \$31.42 per ton. He noted that the higher rate will be in effect through the expiration of the agreement on June 30, 2017, and therefore solid waste disposal fees shall be negotiated and /or charged based on the most current fee established by City ordinance.

Mr. Sera went on to mention that the only other change to the agreement was in item 13, regarding indemnity. At the recommendation of the City Attorney, Jim Foy, it was removed as it does not have any warrant to either party in this agreement.

Mr. Massengill stated that both parties are in agreement with the rate change. Mr. Sera gave a brief history of the initial agreement of 2012 and stated that it is renegotiated and both parties are in agreement with the increased rate.

Councilor Sanchez moved to approve the Landfill Use Agreement between the City of Deming and Hidalgo County. Councilor Rincon seconded the motion; motion carried unanimously.

8. Bids:

a. Bid #16-09-Mobile Home Rental Proposal 695 Skyview Road SW

Mr. Sera stated that the proposals for the property at 695 Skyview Road SW was advertised and reviewed based on three scoring points: 1) monthly rent, 2) years/term of agreement, and 3) years at current residence. Mr. Sera stated that based on these requirements, staff recommends awarding this bid to Genea Caldwell. Mr. Sera went on to say that the award will be subject to a rental agreement. Mr. Sera stated that at the first time the property was leased out, the auditors recommend that the City not accept any bid under \$600/month in order to be in line with the procurement code. Mr. Sera stated that Ms. Caldwell bid \$650/month and has been at her current residence for 20 years. Mr. Sera addressed that part of the agreement would be for Ms. Caldwell to be allowed to use the area for personal use and that there would be no personal financial gain. There was a brief discussion about whether Ms. Caldwell would be accepting payment for the boarding of livestock at the location.

Councilor Milo moved to award bid #16-09 Mobile Home Rental Proposal of 695 Skyview Road SW to Genea Caldwell. Councilor Sanchez seconded the motion; motion carried unanimously.

9. Opening of Quasi-Judicial Public Hearings

a. Quasi-Judicial Public Hearing to Consider a Replat of Lots 45-48 of Idyl Wyld Addition at the Southwest Corner of Poplar and Santa Barbara Street.

Mayor Jasso called to order the public hearing to consider a subdivision request for a replat of lots 45-48 of Idyl Wyld Addition at the southwest corner of Poplar and Santa Barbara Street. 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 applicants, Jean Arthur and Rodger and Marylou Clark are seeking to change the lot lines of their properties. She stated that they are developed perpendicular to Poplar street but the lot lines run parallel to Poplar Street. She went on to say that they are no longer owned by one person, and that they

wish to replat the lots so that they will line up with the residences that are existing. Ms. Gentile referenced a copy of the survey with the proposed replat of the property in which they will go from four lots to three lots. She also noted that she included other maps regarding the subject property. Ms. Gentile noted that the Planning and Zoning Commission recommended approval of the case and that staff has no technical objections to the request. She stated that Council has the option to approve, deny or table the motion.

Mayor Jasso asked if there are any questions of staff by any Council Member. Councilor Sanchez asked if the utilities run on Poplar or Santa Barbara Street. Ms. Gentile said she was not sure where the utilities run, except that they are existing utilities. She stated that she noticed that there are some meters that are not in the allies. She went on to say that it looked like the meters are in the yards of the mobile homes and possibly have to be moved in the future. Councilor Sanchez stated concern that if the meters were within the yard of the subject properties, there would be an issue with reading the meters. Ms. Gentile recommended that a conditional approval include a recorded easement for the properties. Mr. Reedy noted that Planning and Zoning recommended approval upon the condition that are in accordance with the utilities guidelines. Mr. Massengill stated that he was not aware of this issue but would be happy to look at it to be able to tell where the utilities are. Councilor Sanchez reiterated that he hopes it would not be a problem.

Mayor Jasso asked if the application or agent was present to make a statement. Mr. Tyler Benting, 115 E. Ash St., attorney for Jean Arthur. He stated that Ms. Arthur acquired two of these four lots through a collections process and lawsuit. He stated that the utility easement problem has existed for 20-plus years and his client is aware of them.

Mayor Jasso asked if there are any question of the applicant/agent by any Council Member. Councilor Sanchez, again, expressed his concern regarding a utility easement. Mr. Benting stated that his client, as well as the Clarks, would most likely be agreeable to the utility easement agreement.

Mayor Jasso as if any affect parties would like to speak. There were none.

Mayor Jasso asked if any other persons would like to speak. Mr. Edward Khanbajian, 1721 E. Pine Street, asked what the zoning is for the subject property. Ms. Gentile stated that it is zoning B-2 Multi-family, which also allows mobile homes. Mr. Khanbajian asked the size of each lot. Ms. Gentile stated that lot 1 has 7,938.75 sq. ft., lot 2 has 3,799.65 sq. ft., and lot 3 has 3,810.60 sq. ft. Mr. Khanbajian asked if this was after the conversion. Ms. Gentile confirmed that this is after the conversion and gave the dimensions of the previous 4 lots at this location. Mr. Khanbajian asked if the 4 lots already have a meter at each property. Ms. Gentile stated that all 4 lots have meters on the property. Mr. Khanbajian asked who would be responsible for moving the utility meters if the replatting is approved. Ms. Gentile stated that there are currently 4 lots with 3 residences and 3 meters. There would be no removal of any unused meter.

Mayor Jasso asked if there are any questions of other persons by any Council Member. There were none.

Mayor Jasso asked if any registered party would like to cross-examine any party already given testimony. There was no response.

Mayor Jasso asked if there was a Council Member 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 approve the replat of lots 45-48 of Idyl Wyld Addition at the southwest corner of Poplar and Santa Barbara Street. Councilor Milo seconded the motion. Council Sanchez amended his motion to include the contingency of establishing the utility easement to ensure that they are accessible to the City. Councilor Milo accepted and seconded the friendly amendment. Motions carried by the following roll call vote:

ROLL CALL VOTE

Councilor Milo	Aye
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.

b. Quasi-Judicial Public Hearing to Consider a Request a Special Use Permit for a Residential use in the Industrial Zone at 1455 Peru Mill Road.

Mayor Jasso called to order the public hearing to consider a request for a special use permit for a residential use in the Industrial Zone at 1455 Peru Mill Road. 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 case being presented is a special use permit to allow a residence to be installed on their industrial property to provide housing and security at the fertilizer mixing plant at 1455 Peru Mill Road. She went on to say that the property is zoned industrial and the industrial zone does not allow a residential use by right, therefore the applicant is requesting a special use permit. Ms. Gentile noted that the Planning & Zoning Commission recommended approval and staff has no technical objections to this request. She stated that Council has the option to approve, deny, or table the motion.

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

Councilor Milo stated that he has concerns with this request. He stated that the land was sold to the owner for industrial use and he recalls the applicant being asked what his intent was for the land. His concern is that the area will be developed with more residential structures, instead of keeping it industrial. Ms. Gentile addressed some of Councilor Milo's concerns. She referred back to a case in the past in which another tenant of the north industrial area was granted the special use permit to allow for a trailer to be installed at, what used to be, the ASARCO mill to provide security for the property. Ms. Gentile stated that she understands that there is a lot of vandalism and theft in these isolated areas. She noted that the fertilizer plant is built and the business is established, so therefore they are not new to the area. She suggested that the motion might include approval with the contingency that it would be effective as long as the current business is in operation by the current owner. In the event the property is sold, the residence would have to be moved and the new owner would have to apply for the special use permit, if necessary. Mr. Sera and Mayor Jasso chimed in and agreed with Ms. Gentile's suggestion regarding the condition in the motion. Ms. Gentile stated that the business is running successfully and the owner is just concerned with providing security for the property. The owner would be the occupant of the double-wide mobile home on-site. Ms. Gentile reiterated that the motion could include the condition stated earlier as part of the motion.

A brief discussion continued about the status of the fertilizer plant business in that the owner has invested a lot of money into the operation.

Mayor Jasso asked if the applicant/agent was present to give their statement. They were not present.

Mayor Jasso asked if any effected parties would like to speak. There was no response.

Mayor Jasso asked if any other persons would like to speak.

Edward Khanbajian, 1721 E. Pine St., asked if anyone is currently staying on site to provide security. Ms. Gentile stated she was not certain if anyone was staying there, but the City has not allowed anything. Mr. Khanbajian recommended a portable building as the security structure. Mr. Khanbajian also asked if there were any health hazards concerning the chemicals used at the fertilizer plant. Ms. Gentile stated that she checked with the state regarding the chemicals used had very little odor and would not smell stronger than what might normally be used to clean your household floors. Mr. Khanbajian asked if the permit is approved, will the owner be restricted to where the double-wide mobile home will be located on the 10-acre property. Ms. Gentile stated that the owner indicated that the double-wide to be located in the northwest corner of the property, according to the drawing he provided. She went on to say that he wants to designate $\frac{3}{4}$ of an acre for the residence. Mr. Khanbajian asked if the zoning is part of the City or ETZ. Ms. Gentile stated that it is within the City limits, North Industrial Park.

Larry Caldwell, 711 N. Zinc St., state that he understands that there has to be a buffer zone between residential and industrial zoned areas, and this does not meet that requirement. Ms. Gentile stated that this isn't a residential development. The owner had an industry that is built and running and that this is merely a request to provide a residence for security purposes.

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

Councilor Sanchez moved to approve the request for a special use permit for residential use in the industrial zone at 1455 S. Peru Mill Road to provide on-site security, with the condition that the resident only be allowed for this applicant, and if the business is sold the resident be removed and the new applicant apply for a special use permit. Councilor Rincon seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Milo	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.

10. Administrator's Report

Mr. Sera reported the following events:

- Announced that an arrest has been made in connection with the vandalism that took place at the swimming pool, a few years ago. The just has ordered restitution be paid, which is slightly above \$100,000.00, and the City has turned this over to the City Attorney, Jim Foy to handle the legalities of this case.
- Announce the City Employee Mandatory Training on July 19th at the Mimbres Valley Special Events Center.
- Jim Massengill is still working on the Solid Waste Ordinance and hopes to have a couple more public meetings on this topic in order to get that ready for the September Council Meeting.

- Administrative staff continues to work on the end-of-year budget reconciliation. He stated that, unofficially, it looks like the gross receipts tax has gone up 1.7% for the year. However, he believes that it is a mistake on the States part regarding the Hold Harmless distribution rescission.
- The City is still working on the Economic Development Grant with the EDA for a spec building. The grant is difficult to administer, which is administered by the SWNMCOG.
- The mentoring program is going well and he hopes to have feedback from some of those individuals report at the end of the session.
- Bryan continues to work with Deming Cesar Chavez Charter High School to develop a work program.
- Mr. Sera will be attending the City Managers Conference at the end of this month. He announced that he is pleased to have Mr. Ira Pearson, County Manager attend the conference with him.

Mayor Jasso announced that Arryan Ferrano, who is part of the Deming High School Youth Council, has been and intern shadowing the Mayor. Councilor Milo asked for a moment of silence for the fallen officers in Dallas.

11. Closed Session to Discuss the Purchase, Acquisition or Disposal of Real Property Pursuant to NMSA 1978 Section 10-15-1 (H)(8) of the Open Meetings Act

Mayor Jasso entertained a motion to go into closed session.

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

ROLL CALL VOTE

Councilor Milo	Aye
Councilor Rincon	Aye
Councilor Sanchez	Aye

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

Councilor Milo moved to go back into open session. Councilor Sanchez seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Rincon	Aye
Councilor Milo	Aye

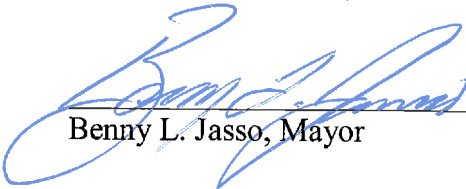
Mayor Jasso stated for the record that there were no motions made during the closed session, and that only the items mentioned to go into closed session were discussed.

12. Adjourn Meeting

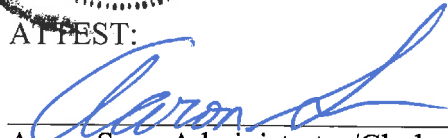
With no further business to discuss, Councilor Sanchez moved to adjourn the meeting. Councilor Milo seconded the motion; motion carried unanimously. Meeting adjourned at 8:10 p.m.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Aaron Sera, Administrator/Clerk

**CITY OF DEMING
RESOLUTION NO. 16-16**

**RESOLUTION OF THE CITY OF DEMING RATIFYING A CERTAIN AGREEMENT
BETWEEN THE CITY OF DEMING AND THE SOUTHWEST NEW MEXICO
COUNCIL OF GOVERNMENTS, DATED JULY 11, 2016, AND AUTHORIZING THE
EXECUTIVE OF SAME BY THE PROPER OFFICIAL OF THE CITY OF DEMING**

WHEREAS, The City of Deming is a member of and desires to have the services of the Southwest New Mexico Council of Governments; and

WHEREAS, it is necessary that an agreement setting forth the services to be performed by the Southwest New Mexico Council of Governments for the City of Deming be entered into and it is a requirement of the New Mexico State Laws; and

WHEREAS, it is necessary to set forth the sum to be paid by the City of Deming to the Southwest New Mexico Council of Governments, as annual dues, for said services; and

WHEREAS, it is the desire of the City of Deming to accomplish these purposes:

NOW THEREFORE BE IT RESOLVED BY THE CITY OF DEMING THAT:

1. The AGREEMENT referred to in the caption of this Resolution (a copy of which is attached hereto and made a part hereof) expresses the desires and intent of the City of Deming.
2. The AGREEMENT set above is hereby ratified and approved by the authorized representatives of the City of Deming and is hereby authorized and instructed to affix their signature thereto.
3. A Certified copy of this Resolution (together with the Agreement) shall be filed at the Southwest New Mexico Council of Governments.

PASSED, APPROVED, AND ADOPTED this 11th day of July, 2016.



CITY OF DEMING, NEW MEXICO

Benny L. Jasso, Mayor

ATTEST:

Aaron Sera, Administrator/Clerk