



BENNY L. JASSO, MAYOR

AARON SERA, ADMINISTRATOR

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CITY COUNCIL MEETING
AGENDA
September 12, 2016
6:00 P.M.

CALL TO ORDER/PLEDGE OF ALLEGIANCE

1. Consent Agenda

- A. Minutes – City Council Meeting 08/08/16
- B. Minutes – Airport Commission Meeting 08/09/16
- C. Minutes – Planning & Zoning Commission 08/15/16
- D. Minutes – Marshall Memorial Library Board Meeting 08/30/16
- E. Out-of-State Travel Request for Police Officer Robert Chavez to Attend the Institute of Police Technology and Management Training in Jacksonville, Florida on October 25-27, 2016.
- F. Out-of-State Travel Requests for Police Captains Alex Valdespino Clint Hogan to attend the FBI-LEEDA Supervisor Leadership Institute in Prescott Valley, Arizona on October 3-7, 2016.
- G. Approval of Memorandum of Agreement Between Deming Fire Department and the United States Border Patrol Sector
- H. Approval of Clinical Affiliation Agreement Between the University of New Mexico and the Deming Fire Department
- I. Approval of Resolution for Participation in Capital Outlay Program Administered by New Mexico Department of Transportation-Multi-Use Path
- J. Approval of Resolution for Participation in Capital Outlay Program Administered by New Mexico Department of Transportation-Road Improvements
- K. Out-of-State Travel Requests for Cassie Arias to Attend the IEDC Annual Conference in Cleveland, Ohio on September 25-28, 2016

2. Public Forum

3. PNM Rebate Presentation by Bruce Ashburn

4. Ratification of the Proclamation of Deming High School and Red Mountain Middle School MESA USA National Champions

5. Ratification of the Proclamation to Recognize September 2016 as Childhood Cancer Awareness Month

6. Approval of Resolution Authorizing the Deming Police Department to Donate two (2) 2003 Chevrolet Impalas to the Western New Mexico University Police Academy
7. Approval of Resolution Declaring Regional Support by The City of Deming, Luna County, Village of Columbus, and Deming Public Schools for NM Highway 11 Truck By-Pass Location Study
8. Bid No. 16-08 – Rescind Bid Award from July 21, 2016 meeting for Hwy. 11 Utility Improvements – Dona Ana Rd. to Solana Rd.
9. Bids:
 - a. Bid # 17-01: Runway 8-26 Pavement Rehabilitation Project
10. Opening of Quasi-Judicial Public Hearings
 - a. Quasi-Judicial Public Hearing to Consider a Variance for fence height at 623 San Miguel Street.
 - b. Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Medical Cannabis Dispensary at 117 E. Spruce Street.
 - c. Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Message Board Sign at 207 S. Silver Ave.
 - d. Quasi-Judicial Public Hearing to Consider a Special Use Permit for an Automotive Repair Business at 3335 Columbus Road.
 - e. Quasi-Judicial Public Hearing to Consider a Special Use Permit for an Automotive Repair Business at 2303 S. Columbus Road.
11. Administrator's Report
12. Adjourn Meeting

The next regular City Council Meeting is scheduled for October 10, 2016 at 6:00 p.m.

CITY COUNCIL MEETING MINUTES September 12, 2016

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

Council/Staff Absent: Laura Holguin, Treasurer

Staff Present: Aaron Sera, City Administrator
Jim Massengill, Public Works Director
Bryan Reedy, Community Svcs. Director
Jim Foy, City Attorney
Raul Mercado, Fire Chief
Bobby Orosco, Police Chief
Laura Holguin, Treasurer
Mary Corral, Receptionist

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 addresses the items in the Consent agenda and called attention to item K. Out-of-State travel request for Cassie Arias to attend the IEDC Annual Conference in Cleveland, Ohio. He noted that item was inadvertently left off the agenda. He stated he did not have any further items to discuss from the Consent Agenda, and recommended Council to approve the minutes in the Consent Agenda.

Councilor Milo moved to approve the Consent Agenda for September 12, 2016. 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 Street
- Laurie Findley, 10280 Hwy. 549 SE

With no other comments, Mayor Jasso closed the public forum session.

3. PNM Rebate Presentation by Bruce Ashburn

Mr. Ashburn from PNM, presented the City of Deming with a rebate check as a result of the energy efficiency project at Hooten Park. He stated that the City retrofitted LED lights to replace 50 pole-mounted halogen flood lights at Hooten Park. Mr. Ashburn stated that there are lots of opportunities for energy efficiency projects to be done.

4. Ratification of the Proclamation of Deming High School and Red Mountain Middle School MESA USA National Champions

Mayor Jasso read the proclamation into record. He commented that he attended the dinner to honor the students who participated in this competition in which they presented a robotic arm as their project. He stated that he was very impressed by this group of young people.

Mayor Pro Tem Cruz moved to ratify the proclamation of Deming High School and Red Mountain Middle School MESA USA National Champions. Councilor Milo seconded the motion; motion carried unanimously.

5. Ratification of the Proclamation to Recognize September 2016 as Childhood Cancer Awareness Month

Mayor Jasso read the proclamation into record.

Mayor Pro Tem Cruz moved to ratify the proclamation to recognize September 2016 as Childhood Cancer Awareness Month. Councilor Rincon seconded the motion; motion carried unanimously.

6. Approval of Resolution Authorizing the Deming Police Department to Donate Two (2) 2003 Chevrolet Impalas to the Western New Mexico University Police Academy

Chief Orosco stated that the resolution and explanation requests authorization for the donation of these two vehicles due to two vehicles reaching their lifecycle. He stated that the Deming Police Department approached WNMU police academy to see if they could utilize the vehicles for use at the police academy. Chief Orosco stated that the vehicles have been stripped of all decals and that one of the light bars was left on one of the vehicles, for training purposes.

Mayor Pro Tem Cruz moved to approve the resolution authorizing the Deming Police Department to donate two 2003 Chevrolet Impalas to the Western New Mexico University Police Academy. Councilor Rincon seconded the motion; motion carried unanimously.

7. Approval of Resolution Declaring Regional Support by the City of Deming, Luna County, Village of Columbus, and Deming Public Schools for NM Highway 11 Truck By-Pass Location Study

Mr. Sera stated that the City has been working with the named entities on a resolution as a result of the expansion of the Port of Entry. He stated that the truck traffic is anticipated to increase tenfold and that this resolution outlines the support of all entities. Mr. Sera went on to say that the entities have submitted a Project Information Form to the RTPO (Regional Transportation Planning Organization), and this resolution helps strengthen that to help rank it higher on the priority list. Mr. Sera read the resolution into record.

Councilor Milo stated that at one time there was a plan that he recalls. Mr. Sera stated that back in 2009, what was done was a transportation study which included five alternatives as a truck by-pass. He went on to say that in order to move forward a location study has to be done in order to request Federal funds. Mr. Sera explained the different parts of the process in order to apply for funding and move forward.

Councilor Sanchez asked who would do the study, would someone be hired to conduct the study? Mr. Sera stated that an outside agency would be hired to conduct the study. Mr. Massengill added that there is a lot of public input involvement in the 1A & B part of the process.

Mayor Pro Tem Cruz commented that it is nice that we got everyone involved in this process. Mr. Sera stated that the County was going to have this item on their agenda last week.

Mayor Pro Tem Cruz moved to approve the resolution declaring regional support by the City of Deming, Luna County, Village of Columbus, and Deming Public Schools for the NM Highway 11 truck by-pass location study. Councilor Milo seconded the motion; motion carried unanimously.

8. Bid No. 16-08- Rescind Bid Award from July 21, 2016 meeting for Hwy. 11 Utility Improvements -Dona Ana Rd. to Solana Rd.

Mr. Massengill is requesting to rescind the bid awarded to Burn Construction. After reviewing the procurement process, he stated that the bid process was not held to the best format. He went on to say that they will be redesigning the project, which the City Engineer is currently working on. Mr. Massengill stated that once the bid award is formally rescinded, we can proceed to advertise the revised bid.

Mayor Pro Tem Cruz asked if the contractor who was previously awarded the bid, will be contacted. Mr. Massengill stated that they will be contacted and Ms. Holguin interjected by saying that contacting them is a requirement.

Councilor Milo asked if there were any time limits on this project, due to grant funding. Mr. Massengill stated that there were not any deadlines due to the project being City funded.

Councilor Milo moved to rescind Bid #16-08 awarded at the July 21, 2016 meeting, for Hwy. 11 Utility Improvements on Dona Ana Road to Solana Road. Councilor Sanchez seconded the motion; motion carried unanimously.

9. Bids:

a. Bid# 17-01: Runway 8-26 Pavement Rehabilitation Project

Mr. Reedy presented this item to Mayor and Council. He stated that a sealed bid process was followed and the bids were opened on August 30th. Mr. Reedy stated that they received one bid. He went on to say that the bid came in well below the engineer's estimates at \$396,304

plus NMGRT. Mr. Reedy stated that the engineer's estimate was approximately \$625,000 which would not cost the state anything near the estimate.

Councilor Milo asked if the contractor who submitted the bid was experienced in this type of work. Mr. Reedy stated that this contractor is from Utah and is also licensed in New Mexico, and they have done similar work for Alamogordo, Belen and two other cities in the area. Councilor Milo asked how long the project should take to complete. Mr. Reedy stated that it would not last over 30 days and our project would be timed appropriately as they will also be doing some work in Silver City and the air traffic from there were be diverted here and vice-versa. Mr. Sera noted that the air taxi service in Silver City, Boutique Air, will be diverting their flights to Deming during the construction in Silver City and will operate having flights out of Deming to Albuquerque and Phoenix in order to avoid any interruption of air traffic.

Mayor Pro Tem Cruz moved to approve Bid #17-01 Runway 8-26 Pavement Rehabilitation Project. Councilor Sanchez seconded the motion. Mr. Sera recommended that Mayor Pro Tem Cruz include the specific amount of the project, including gross receipts tax. Mayor Pro Tem Cruz made a friendly amendment to his motion to include the amount of the awarded bid of \$396,304 plus NMGRT to Maxwell Asphalt Sealing Specialists. Councilor Sanchez seconded the friendly amendment; motions carried unanimously.

10. Opening of Quasi-Judicial Public Hearing

Mayor Jasso read the five (5) public hearings to be presented. They are as follows:

- a. **Quasi-Judicial Public Hearing to Consider a Variance for fence height at 623 San Miguel Street**
- b. **Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Medical Cannabis Dispensary at 117 E. Spruce Street.**
- c. **Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Message Board Sign at 207 S. Silver Ave.**
- d. **Quasi-Judicial Public Hearing to Consider a Special Use Permit for an Automotive Repair Business at 3335 Columbus Road.**
- e. **Quasi-Judicial Public Hearing to Consider a Special Use Permit for an Automotive Repair Business at 2303 S. Columbus Road.**

He called all five Quasi-Judicial public hearings to order. Mayor Jasso verified that there were no abstentions, "ex-parte contacts" or "conflicts of interest" for any Council Member. He then swore in all parties who were signed in to give testimony for any of the five cases to be presented.

Mayor Jasso went on to say 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. Quasi-Judicial Public Hearing-Request to consider a variance for fence height at 623 San Miguel Street

Mayor Jasso verified with the secretary that the legal notices for tonight's meeting were properly posted. He then asked staff if they were prepared to present the case. Ms. Gina Gentile, City Planners, stated that she was prepared.

Gina Gentile, City Planner, stated that the applicants, Carmen and David Reyes, would like to request a variance to allow a 6-foot-high fence in the interior lot line the front yard setback area. She went on to say that the zoning regulations state that fences in the front 30 feet of a property shall be no higher than 4 feet; and that the applicants are requesting this fence for privacy and safety. She stated that the Planning Commission recommended approval of this variance, and that staff has no technical objections to this request. She stated that Council options would include approval, denial, or tabling the motion.

Mayor Jasso asked if there were any questions of staff by any Council Member. There were none.

Mayor Jasso asked if the applicant/agent would like to make a statement.

Carmen Reyes, 623 San Miguel St., stated that she comes before Council this evening to ask for a fence height variance. She went on to say that the first reason is due to privacy, peace of mind. She stated that she has three dogs and wants to make sure that they stay in their yard. She stated that her next-door-neighbor, Mr. Roberto Montoya, has two dog who have gotten loose, several times, and get into her yard. Mrs. Reyes stated that when this happens, she calls the neighbor and gets his dogs back, safely. Mrs. Reyes' main concern is the privacy, safety of their dogs, and peace of mind. She stated that there have been a few altercations between her and her husband and the neighbor, Mr. Montoya, and would like to have the fence put up to avoid any further situations. Mrs. Reyes stated that the neighbor, Mr. Montoya, also has apricot trees in which the fruit falls in their yard. She stated that they would not mind at all if they would ask permission to go into their yard to collect the fruit, but they go into the yard when they are not home. Again, Mrs. Reyes stated that they want the higher fence to provide privacy and safety for their dogs, and to keep the neighbors dogs out of their yard.

Mayor Jasso asked if there were any questions of the applicant/agent by any Council Member.

Councilor Milo stated that there is an ordinance regarding loose dogs and that the Reyes' could call City Hall and have someone go out to talk to Mr. Montoya. Mrs. Reyes stated that the neighbor's dogs are tied, but they sometimes get loose and jump the fence and get into their yard. She went on to say that she safely, gets the dogs back to her neighbors, but would like to keep their dogs safe and out of their yard. Again, Councilor

Milo recommended that the Reyes' call City Hall to have someone go talk to Mr. Montoya about the dogs and keeping them in his yard.

David Reyes, 623 San Miguel St., added to Mrs. Reyes statement his concern about privacy and liability due to the neighbor's dogs coming into their yard. Mr. Reyes stated that he has German Shepherds and that the neighbor's dogs are smaller dogs and he does not want to be liable for their dogs coming into his yard and possibly getting injured. Mr. Reyes stated that they have called animal to control in the past, because when he tried to get the neighbor's dog and take it back home, it growled at him and would not let him get near it. He also stated his concern about the neighbor's apricot trees encroaching on his property along the fence line. He also stated that he would appreciate the decency from the neighbor to ask permission to go into his yard to get the apricots. Mr. Reyes said he personally saw them go into his yard without asking permission, and throw down a tarp to collect the apricots. He also stated that there is a privacy issue with Mr. Montoya.

Mayor Jasso asked if there were any questions of the applicant/agent by any Council Member.

Councilor Milo asked Mr. Reyes if he has talked to Mr. Montoya about the issue. He stated that he has not, due to other issues between them. Mr. Reyes stated that he filed a police report with Deming Police Department, in case this situation escalated.

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

Mauricio Dominguez, 915 San Miguel St., stated that he agrees that the front fence should be 4 feet but feels the side fences should be allowed to be 6 feet high, for privacy. He also stated that everyone should be responsible to keep their dogs in their yards.

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

Mayor Jasso asked if there were any other persons who would like to speak. Ms. Gentile clarified the location of the fence that is being proposed in the request. She stated that the section being considered is in within the front 30 feet of the lot, on the side part of the property. Councilor Sanchez asked if there was a picture that better illustrates the location of the proposed fence. Ms. Gentile pointed out picture 5 and the site plan in their packet. Councilor Milo asked if the proposed location was at a corner. Ms. Gentile stated it was not and that it is an internal lot line. Mayor Jasso asked what type of material will be used for the fence. Ms. Gentile stated it would be constructed of 'U'-panel metal sheets.

Mayor Jasso closed the public comment sessions and asked if any Council Member was prepared to make a motion or if they would like to go into closed session under NMSA 1978 10-15-1(H)(3).

Councilor Milo moved to approve the variance for the increased fence height to 6 feet at 623 San Miguel Street. Mayor Pro Tem Cruz seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Milo	Aye
Mayor Pro Tem Cruz	Aye
Councilor Sanchez	Aye
Councilor Rincon	Aye

b. Quasi-Judicial Public Hearing to Consider a Special Use Permit for a Medical Cannabis Dispensary at 117 E. Spruce Street

Mayor Jasso verified with the secretary that the legal notices for tonight’s meeting were properly posted and that there were not any abstentions, “ex-parte contact”, or “conflict of interest” for any Council Member.

Mayor Jasso asked if staff was prepared to present the case.

Gina Gentile, City Planner stated that the special use request is for a medical cannabis dispensary proposed to be located at 117 E. Spruce Street. She stated that the applicant NMTO—Ultra Health is requesting a special use permit, as per City Code, to open a medical cannabis dispensary business. She stated that staff has no technical objection to this request and 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 Sanchez asked if this business would generate any gross receipts tax for the City. Mr. Reedy stated that it would and that the business would pay gross receipts tax as he researched the matter this afternoon. Mr. Sera asked if the tax would be paid as gross receipts tax and not an excise tax. Mr. Reedy confirmed that it would be paid as gross receipts tax as there is no excise tax in New Mexico.

Councilor Milo asked Ms. Gentile if she knew how many people would be employed. She stated that she was not certain, but at this time the applicant would need to get the special use permit before they could go on to apply for their license from the health department. She went on to say that after they receive their license from the health department, the City would issue the business registration. Councilor Milo asked if this was a federal offense. Mr. Foy, City Attorney, stated that this is a federal offense. Mr. Foy stated what everyone needs to understand about this situation is that the New Mexico Statute allows for people to get medical cards to use marijuana and from the State standpoint, it is not illegal if you have that card. However, from the Federal standpoint, it is illegal. He went on to say that on the other hand his understanding is that President Obama, through executive order, is allowing the states to handle the regulation of it and not come down Federally on these kinds of situations, generally. Mr. Foy stated that they might, on a case-by-case basis, but it is illegally Federally and that’s the fact.

Mayor Jasso asked if there were any other questions of Council. There were none.

Mayor Jasso asked if the applicant/agent would like to make a statement. They were not present. Ms. Gentile stated that she did explain to the applicant that he needed to be here this evening, and he stated he would try to be here, but she was not sure why he was not able to attend tonight.

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

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

Sean Kavanaugh Blaine, 4220 Cordova Rd., stated that there is only one moral argument that can be put forth, and that is in support. He stated that on the third day God created all the sea-bearing plants, on the sixth day he gave them to all mankind. He went on to state that there is only one public safety argument that can be put forth; that is in support of this dispensary; as each legal transaction removes an illicit one. He also stated that the only medical argument that can be put forth is in favor of the cannabis dispensary, as it is administered by doctors despite persecution by the DEA. Mr. Blaine also stated that there is only one economic argument that can be put forth, and that is in support of the cannabis dispensary. This is because it will generate jobs and a significant amount of gross receipts tax as it serves not only the people of this City, but the entire County. Mr. Blaine stated that there is no reasonable opposition that can be put forth for this, and that the only opposition that can be put forth is based solely in fear and ignorance and put forth by less than humane people. Mr. Blaine asked Council, "what will you tell the children of cancer victims? What will you tell the vets with PTSD, the spouses of dying loved ones, and the old people that are infirm." He asked, "will you tell them that they will still need to continue to drive 100-mile round trip to pick up their medication and face persecution by the Federal Government at the border crossing, or resort illegal activity. Or, will you tell them that you've acted a compassionate manner, consistent with the spirit with the laws of this state." He thanked Council for their time.

Councilor Milo stated that the only problem he has is that the applicant knew the meeting was tonight and did not show up. Councilor Milo stated that this is a serious item that will effect the entire City and it would have been helpful for him to have attended to answer questions. Mayor Pro Tem Cruz pointed out that at previous meetings the applicants have not always been in attendance, and so if that was going to apply, other cases should have not been passed. Mr. Sera stated that the presence of the applicant should not be a determining factor in the case, although they did attend the Planning and Zoning Meeting. Mr. Sera reiterated that the applicant did notify the City that they would be attendance for this meeting and feels that there must be a reasonable explanation as to why they did not attend. Mr. Foy added that what needs to be focused on and considered, is the possible effect on adjacent properties and the possible effect of the particular zone. He went on to say that this is what Council is here to decide on, today, not the moral aspect of whether you like marijuana, or not. He also stated that he feels fairly confident in telling Council that the State of New Mexico highly regulates this business. The State

of New Mexico through its regulation from the Department of Health and through the Statutes which regard to the Department of Health, go through a whole process before they will in any way, shape, or form license someone to be a distributor of medical cannabis. And so, what Mr. Foy suggested to Council, is to condition any approval you have with regard to the special use permit on the fact that they provide a copy of the approved, amended license from the State of New Mexico. Mr. Foy stated that this would provide the assurance from the State regulators that they are doing all they need to do with regards to regulations.

Mayor Pro Tem Cruz asked if this was published in accordance with all rules to let the surrounding people know that this business would be applying for the permit. Ms. Gentile stated that it was in accordance.

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

Tamara Hurt, 216 S. Gold Ave., stated she knows people that do utilize it get hassled by the Border Patrol, coming from Las Cruces. She stated that she thinks it would not only bring people from our county, but also Grant and Hidalgo counties, so they don't have to cross over the Border Patrol station. She also stated that the gross receipts tax would be a good thing. Mrs. Hurt added that her only concern would be that the building being fortified to deter any crime. Mr. Foy stated that he believes that building safety features are part of the regulation in order to get licensed. Councilor Milo asked if all this was discussed with the applicant at the Planning and Zoning meeting, and if he was made aware of the safety issues regarding break-in. Ms. Gentile stated that she was not sure if safety was specifically addressed, but the Planning and Zoning Committee had several questions for the applicant, and the applicant assured the Committee that the State regulates all that and he would comply with the regulations.

Mr. Blaine asked if he could add another comment. He was allowed. He stated that he would highly recommend that the producer meet with the City Police Chief and that with condition of all their sales, that all their products be sold in individually marked packaging that could be easily traced, rather than use generic bags. He also stated that the Police Department should have live access to any security cameras on the exterior of the building.

Councilor Milo again stated that he would have liked the applicant to be present to answer some of these questions.

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

Mayor Jasso asked if there were any registered party who would like to cross-examine any party having already given testimony. There was no one.

Mayor Jasso closed the public comments and brought it back to Council. He asked if any Council Member was 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 medical cannabis dispensary at 117 E. Spruce Street. Councilor Sanchez seconded the motion. Mayor Pro Tem Cruz made a friendly amendment to his motion to include that it is with the condition that the owner is approved by the State of New Mexico. Councilor Sanchez seconded the friendly amendment. The motion and friendly amendment passed with the following roll call vote:

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Milo	Aye
Mayor Pro Tem Cruz	Aye
Councilor Rincon	Aye

c. Quasi-Judicial Public Hearing for a Special Use Permit for a Message Board Sign at 207 S. Silver Ave.

Mayor Jasso verified with the secretary that the legal notices for tonight's meeting were properly posted and that there were not any abstentions, "ex-parte contact", or "conflict of interest" for any Council Member.

Mayor Jasso asked if staff was prepared to present the case.

Gentile Gentile, City Planner, stated that the applicant, William Stanton, would like to install a 3 ft. X 12 ft. message sign at their new business, located at 207 S. Silver Ave. She stated that according to the Deming Municipal code, a message board sign is required to have a special use permit. Ms. Gentile stated that staff has no technical objection to this request and that the Planning and Zoning Commission recommended approval. She went on to say that the Council options would be approval, denial, or tabling the motion.

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

Councilor Sanchez asked where exactly 207 S. Silver Ave. is located. Ms. Gentile explained the location is next to United Country Real Estate. Councilor Sanchez asked what type of business will be there. Ms. Gentile stated that it is a psychic reading and gift shop.

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

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

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

Mr. Sean Blaine, 4220 Cordova Rd., stated that the sign has already been installed, but is not on. Mr. Reedy stated that the applicant was told at Planning and Zoning Commission that he could not install the sign until a decision is made by Council. Ms. Gentile stated that she also told the applicant that they must wait until a decision is made by Council, to install the sign. Mr. Blaine stated that he has no objection to the sign, other than its lack of esthetic qualities.

Secretary Jasso reminded the Mayor and staff that the applicant must be reminded of the 15-calendar day appellation period before they can turn the sign on.

Mayor Jasso asked if any registered party would like to cross-examine any party already given testimony. There were none.

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).

Mayor Pro Tem Cruz moved to approve the special use permit for a message board sign at 207 S. Silver Ave. 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 Pro Tem Cruz	Aye

d. Quasi-Judicial Public Hearing for a Special Use Permit for an Automotive Repair Business at 3335 Columbus Road

Mayor Jasso verified with the secretary that the legal notices for tonight's meeting were properly posted and that there were not any abstentions, "ex-parte contact", or "conflict of interest" for any Council Member.

Mayor Jasso asked if staff was prepared to present the case.

Gina Gentile, City Planner, stated that this is a special use request for an automotive repair business, located at 3335 S. Columbus Road. Ms. Gentile stated that the applicant, Jose Diaz, is requesting a special use permit for a business automotive repair and the property is currently zoned commercial. She stated that the Planning and Zoning Commission recommended approval of this request, and that staff has no technical objection to the request. She noted that the Council options are approval, denial, or tabling the motion.

Mayor Jasso asked if Council had any questions of staff.

Councilor Milo asked if the reason for the special use permit is an ordinary request. Ms. Gentile stated that it is required due to the ordinance which states that all automotive businesses must apply for a special use permit. Councilor Milo asked if it is in a commercial area and if there are any nearby residential areas. Ms. Gentile stated that the location is in a commercial area and that there are no nearby residential areas.

Mr. Sera asked that, in the future, a picture of the location be included in the packet in order to have a better understanding. Ms. Gentile stated that she usually does include a picture and apologized for not having one in this case.

Councilor Milo asked if Council member can go pass by the subject property to get a better understanding of the request. Mr. Foy said that they could go by the property, but could not stop at the location and talk to the applicant.

Mayor Jasso closed the public comment session. He 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).

Mayor Pro Tem Cruz moved to approve the special use permit for an automotive repair business at 3335 S. Columbus Road. Councilor Milo seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Rincon	Aye
Mayor Pro Tem Cruz	Aye
Councilor Sanchez	Aye
Councilor Milo	Aye

e. Quasi-Judicial Public Hearing for a Special Use Permit for an Automotive Repair Business at 2303 S. Columbus Road.

Mayor Jasso verified with the secretary that the legal notices for tonight's meeting were properly posted and that there were not any abstentions, "ex-parte contact", or "conflict of interest" for any Council Member.

Mayor Jasso asked if staff was prepared to present the case.

Gina Gentile, City Planner, stated that this special use request for an automotive repair, paint and auto body shop, located at 2303 S. Columbus Road. She went on to say that the applicant, Johnny Gonzales, is requesting a special use permit for a business where he will do car restoration which will include repair and in the future will include paint and body work. She stated that the property is currently zoned commercial and is not close to residential properties. Ms. Gentile stated that staff has no technical objections to this request and that Council options are approval, denial, or tabling the motion.

Mayor Jasso asked if Council has any questions of staff.

Councilor Sanchez stated that in several cases, most of the applicants have already leased the buildings for business without knowing that they need a special use permit. Ms. Gentile stated that this is an awkward thing and that the occupants lease the building without knowing that a special use permit is required, and cannot operate for at least two to three months. She went on to say that in these two cases, she has issued temporary business licenses to them, which will expire this month. Ms. Gentile stated that she explained to the applicants that if the special use permit is not approved, their business will have to close.

Councilor Milo stated that she has made the right decision. Ms. Gentile stated that since the business were previously used as automotive businesses in the past, she went out on a limb to make this call and issue a temporary license. She stated that she would not have made this call if it was a totally new use for the building and might have had needs or concerns.

Mayor Pro Tem Cruz stated that this is a good point in order to have Deming be a business friendly business for new business owners.

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

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

Mayor Jasso closed the public comment session. He 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).

Mayor Pro Tem Cruz moved to approve the special use permit for an automotive repair business at 2303 S. Columbus Road. Councilor Rincon seconded the motion; 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

11. Administrator's Report

Mr. Sera reported on the following items:

- He rebutted Mr. Khanbavian's statements and that he is misinformed on the utility

deposits and speed limit signs. He stated the Mr. Khanbabian has never come in to discuss these items with staff and they are not true. Mr. Sera stated that if anyone has a concern, he encourages them to come into the office to talk about it.

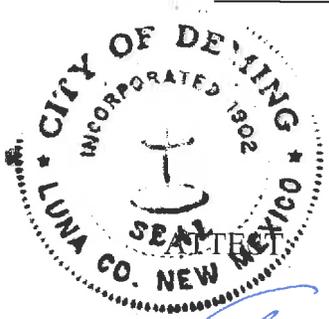
- He stated that he and staff are working on the farm leases. Currently the market value rates are outdated and he and staff will review the current agreements to make sure they are at fair market value.
- The auditor's visits have gone well and staff continues to make sure everything continues to go well.
- The City, County, DPS, and Columbus are working on a collaboration for a truck bypass study project.
- City is working with the State on LED funds for a manufacturer who is working on bringing jobs to Deming. The total project will be a \$5 million investment on the developer's part. This will be a good thing for the community, as far as jobs in the area.
- The waste water treatment plant in Ruidoso currently experienced an accident involving the waste water treatment plant operator. He went on to say that he and the Public Works Director have immediately taken some precautions at our waste water treatment plant. He stated that the Audubon Society goes out to bird watch near our plant, and that has immediately been ceased.
- Deming Cesar Chavez Charter High School has kicked off their Job Skill Development Program and the City is currently employing 7 workers from the school.
- Recently closed on the Allen Farm sale to Billy the Kid Produce for their plant expansion to extend their season.
- A company is interested in opening the old ASARCO mine out at Peru Mill. The City is working with them on this economic development opportunity.
- The solid waste ordinance is in its final draft format. A few adjustments were made, based on the comments from the last meeting, and a copy will be available next week.
- There will be a special City Council Meeting to discuss the solid waste ordinance on September 29, 2016 at 5:30 p.m. and the Andres Z. Silva Conference Center.
- The rate analysis has been compiled and a rate increase will be proposed to cover employing a code enforcer to strictly cover Solid Waste. It looks like the increase will be \$.79 per residence. Councilor Sanchez requested that both trucks be available for public view at the special meeting. Mr. Sera stated that he would like to present the rate analysis to Council so they can fully understand the reason for the rate

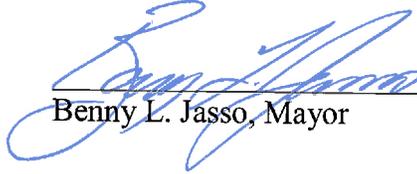
increase.

12. Adjourn Meeting

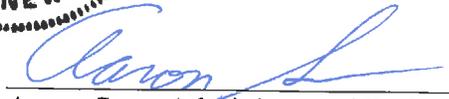
With no further business to discuss, Councilor Milo moved to adjourn the meeting. Councilor Sanchez seconded the motion; motion carried unanimously. Meeting adjourned at 7:50 p.m.

CITY OF DEMING, NEW MEXICO





Benny L. Jasso, Mayor



Aaron Sera, Administrator/Clerk

**CITY OF DEMING
RESOLUTION NO. 16-22**

**PARTICIPATION IN CAPITAL OUTLAY PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the City of Deming and the New Mexico Department of Transportation enter into a cooperative agreement.

WHEREAS, the total minimum cost of the project will be \$150,000.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 100% or not exceed \$150,000.00, and
- b. City of Deming's proportional matching share shall be 0%.

The City of Deming shall pay all costs, which exceed the total amount of \$150,000.00.

NOW, THEREFORE BE IT RESOLVED, in official session that City of Deming determines, resolves, and orders as follows:

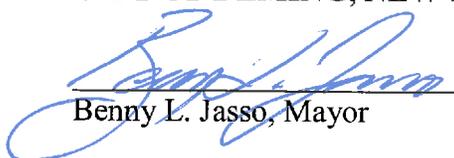
That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2020 and the City of Deming incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

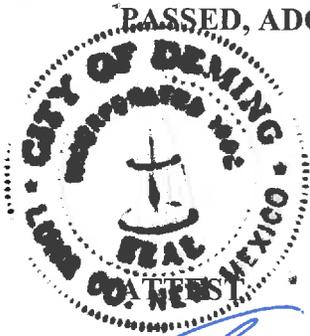
BE IT FURTHER RESOLVED, by the City of Deming, to enter into Cooperative Agreement Control Number C1162574 with the New Mexico Department of Transportation for Capital Outlay (Laws of 2016) for "Planning, design and construct a multi-use path along Florida street between New Mexico Highway 11 and Eight Street in Deming in Luna County".

PASSED, ADOPTED, AND APPROVED this 12th day of September, 2016.

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor


Aaron Sera, City Clerk



**CITY OF DEMING
RESOLUTION NO. 16-23**

**PARTICIPATION IN CAPITAL OUTLAY PROGRAM ADMINISTERED
BY NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the City of Deming and the New Mexico Department of Transportation enter into a cooperative agreement.

WHEREAS, the total minimum cost of the project will be \$250,000.00 to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 100% or not exceed \$250,000.00, and
- b. City of Deming's proportional matching share shall be 0%.

The City of Deming shall pay all costs, which exceed the total amount of \$250,000.00.

NOW, THEREFORE BE IT RESOLVED, in official session that City of Deming determines, resolves, and orders as follows:

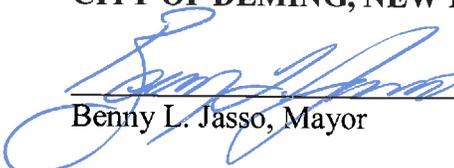
That the project for this Cooperative agreement is adopted and has a priority standing.

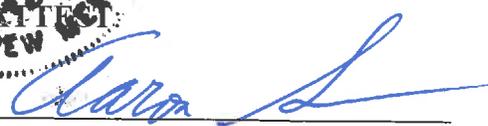
The agreement terminates on June 30, 2020 and the City of Deming incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

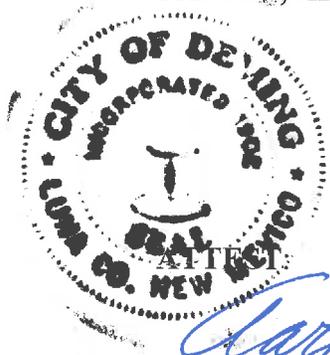
BE IT FURTHER RESOLVED, by the City of Deming, to enter into Cooperative Agreement Control Number C1162573 with the New Mexico Department of Transportation for Capital Outlay (Laws of 2016) for "Planning, design and construct improvements to roads in Deming in Luna County".

PASSED, ADOPTED, AND APPROVED this 12th day of September 2016.

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor


Aaron Sera, City Clerk



Proclamation

MESA USA National Champions

WHEREAS, the City of Deming, an oasis formed by the distinctive water and agriculture marvel made of individuals who promote the social, commercial and scientific development of our community; and

WHEREAS, the City of Deming and surrounding communities value education and the pursuance of academic excellence through our School District; and

WHEREAS, the City of Deming through partnership with the School District and New Mexico Mathematics, Engineering, Science and Achievement (NM MESA), targets success in Science, Technology, Engineering, Math (STEM) fields of study; and

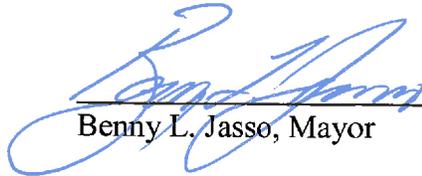
WHEREAS, New Mexico MESA, Incorporated, a nonprofit organization, is part of a national initiative, MESA USA to promote educational enrichment for pre-college students; and

WHEREAS, the students of Deming High School and Red Mountain Middle School have participated and attained National Champion status in the National MESA USA Engineering Design Challenge in June 2016 in Ogden, UT; and

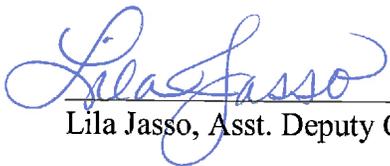
WHEREAS, the six Deming students - Adriana Darrow, Alejandra Orosco, Kaitlyn Warczinski, Antoni Varela, Robbie Lee Perkett, and David Velez are members of The National Champions Team.

NOW, THEREFORE, I, Benny L. Jasso, Mayor of Deming, do hereby proclaim Deming High School and Red Mountain Middle School MESA USA National Champions.

DONE THIS 20th DAY OF AUGUST, 2016 IN THE CITY OF DEMING, NEW MEXICO.


Benny L. Jasso, Mayor

ATTEST:


Lila Jasso, Asst. Deputy Clerk

Proclamation

CHILDHOOD CANCER AWARENESS MONTH SEPTEMBER 2016

WHEREAS, the health and safety of all citizens of Deming is essential to the happiness and well-being of the City's families and communities; and

WHEREAS, childhood cancer affects one out of every 15,000 of our country's young people each and every year, and one in five of those diagnosed does not survive; and

WHEREAS, this tragic disease is the leading cause of death by disease among U.S. children between infancy and age 15; and

WHEREAS, when a child is diagnosed with cancer, it devastates their family, and the unexpected costs of treatment can be overwhelming; and

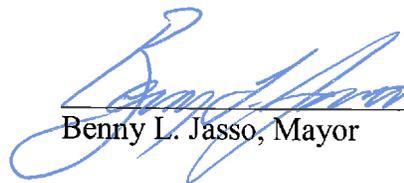
WHEREAS, the determination and bravery with which these children fight their battles against cancer should be recognized and commended by all; and

WHEREAS, it is vital that those affected by childhood cancer have access to quality, affordable care, and that research of all forms of childhood cancer continues to be vigorously supported;

NOW, THEREFORE, I, Benny L. Jasso, do hereby recognize September 2016 as **CHILDHOOD CANCER AWARENESS MONTH** in the City of Deming, New Mexico, and I call this observance to the attention of all our citizens.

Signed this 12th day of September, 2016 in the City of Deming, New Mexico.

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Aaron Sera, Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 16-24**

**A RESOLUTION AUTHORIZING THE DEMING POLICE DEPARTMENT TO
DONATE TWO (2) 2013 CHEVROLET IMPALAS TO THE
WESTERN NEW MEXICO UNIVERSITY POLICE ACADEMY**

WHEREAS, the Deming Police Department is requesting authorization to donate two (2) 2003 Chevrolet Impalas VIN numbers 2G1WF55K939298793 and 2G1WF55K139398497, with an approximate value of \$2,500, to the Western New Mexico University Police Academy; and

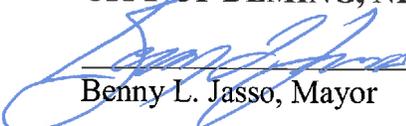
WHEREAS, the Deming Police Department no longer will use the vehicle listed above, as it has reached its lifecycle and is considered out of service; and

WHEREAS, the Deming Police Department believes that the Western New Mexico University Police Academy would benefit from the donation of the vehicle.

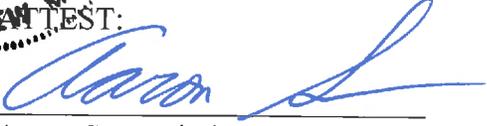
NOW THEREFORE, BE IT FURTHER RESOLVED by the governing body of the City of Deming, that both 2003 Chevrolet Impalas described above, with an approximate value of \$2,500, be approved for donation to the Western New Mexico Police Academy; and that staff be authorized to execute the necessary documents to do so.

PASSED, ADOPTED, AND APPROVED this 12th day of September, 2016.

CITY OF DEMING, NEW MEXICO



Benny L. Jasso, Mayor



Aaron Sera, Clerk





BENNY L. JASSO, MAYOR

AARON SERA, ADMINISTRATOR

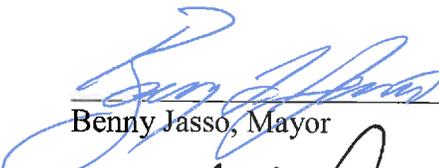
Phone (575) 546-8848 · Fax (575) 546-6442
E-MAIL: deming@cityofdeming.org · Website: www.cityofdeming.org
P.O. BOX 706 · DEMING, NEW MEXICO 88031
POPULATION 14,000

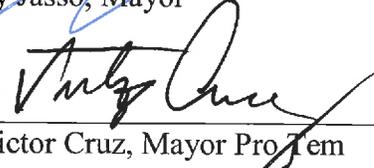
September 12, 2016

We, officials of the City of Deming, do hereby authorize the disposal of the used or obsolete property with a FMV of less than \$5,000, listed below.

Asset #9120-00	2003 Chevrolet Impala	VIN #2G1WF55K139398497
Asset #9122-00	2003 Chevrolet Impala	VIN #2G1WF55K939298793

Signed this 12th day of September 2016.


Benny Jasso, Mayor


Dr. Victor Cruz, Mayor Pro Tem


Aaron Sera, Administrator

CITY OF DEMING
Resolution No. 16-25
COUNTY OF LUNA
Resolution No. _____
VILLAGE OF COLUMBUS
Resolution No. _____
DEMING PUBLIC SCHOOLS
Resolution No. _____

**A Resolution Declaring Regional Support by The City of Deming,
Luna County, Village of Columbus, and Deming Public Schools For
NM Highway 11 Truck By-Pass Location Study.**

WHEREAS, four Luna County, New Mexico entities comprised of City of Deming, Luna County, Village of Columbus and Deming Public Schools recognize the need to study alternative traffic routes for commercial vehicle movement through Luna County, originating at the International Border Crossing located at Columbus, New Mexico through Luna County and the City of Deming to access Interstate 10 and NM Hwy. 26; and,

WHEREAS, the City of Deming is submitting a NMDOT Project Information Form to add the NM Hwy. 11 Truck By-Pass Location Study to the Regional Transportation Improvement Program list for Federal Fiscal Year 2016/2017 (FFY16/17) in the amount of \$400,000.00, and,

WHEREAS, the four entities resolve to work collaboratively towards a regional solution for commercial truck traffic movement through Luna County, Columbus and the City of Deming; and,

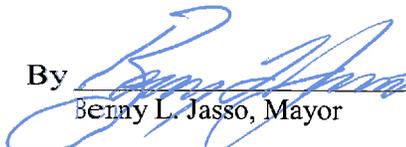
WHEREAS, the four entities resolve to seek funds from all available Federal and State agencies to fund the Location Study; and,

NOW THEREFORE, BE IT RESOLVED by the governing bodies of the City of Deming, Luna County, Village of Columbus, and Deming Public Schools that:

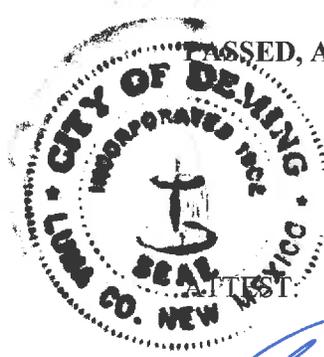
1. The four Luna County, New Mexico entities comprised of City of Deming, Luna County, Village of Columbus and Deming Public Schools resolve to support a regional collaboration for a FHWA/NMDOT Location Study for a proposed NM Hwy. 11 Truck By-Pass through Luna County, Columbus and the City of Deming.

PASSED, ADOPTED, AND APPROVED this 12th day of September, 2016.

CITY OF DEMING, NEW MEXICO

By 
Benny L. Jasso, Mayor


Aaron Sera, City Clerk



PASSED, ADOPTED, AND APPROVED this ____ day of September, 2016.

COUNTY OF LUNA, NEW MEXICO
BOARD OF COUNTY COMMISSIONERS

By _____
R. Javier Diaz, Chairman

ATTEST:

Andrea Rodriguez, Luna County Clerk

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2016.

VILLAGE OF COLUMBUS, NEW MEXICO

By _____
Phillip Skinner, Mayor

ATTEST:

Cynthia Varnhagen, Village Clerk

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2016.

DEMING PUBLIC SCHOOLS, NEW MEXICO

By _____
Ron Wolfe, Board President

ATTEST:

Name and Title