

CITY COUNCIL MEETING MINUTES October 10th, 2011

Council **Andres Z. Silva, Mayor** **Joe “Butter” Milo, Councilor**
Present: **Linda Enis, Councilor** **William C. Shattuck, Mayor Pro Tem**

Absent: **David Sanchez, Councilor**

Staff **Richard F. McInturff, Administrator** **Edgar Davalos, Fire Chief**
Present: **Aaron Sera, Assistant City Administrator** **Mary Mackey, Administrative Secretary**
 Richard Kocab, Assistant Treasurer
 Lawrence Brookey, Public Works Director

Yvonne Gonzalez, City Attorney Associate

Mayor Silva led the pledge of allegiance and called the meeting to order at 6:00 p.m.

1. Consent Agenda

- a. Minutes – City Council Workshop and Regular Meeting 09/12//11
- b. Minutes – Special City Council Meeting 09/15/11
- c. Minutes – Special City Council Meeting 09/28/11
- d. Minutes – Tourism Development Committee 09/14/11
- e. Minutes – P&Z 09/19/11
- f. Minutes – Marshall Memorial Library 09/27/11
- g. Minutes – Parks Commission 09/13/11
 - a. To Allow Trash Barrels from Keep Luna County Beautiful to be Placed at City Parks
- h. Out of State Travel Request by Aaron Sera to Attend the FAA Southwest Region Annual Conference in Fort Worth, Texas from November 7th to 9th, 2011.

Councilor Enis motioned to approve the consent agenda as presented, second by Councilor Milo; motion carried unanimously.

2. Public Forum

3. Proclamation: National Disability Employment Awareness Month

Mayor Silva read the proclamation into record designating October as National Disability Employment Awareness Month, in which the City of Deming celebrates the contributions of individuals with disabilities and promotes awareness of those who live their lives daily with disabilities.

4. Resolution: Authorizing and Approving Submission of a Completed Loan Application for Financial Assistance to the NM Environmental Department – Construction Program Bureau Rural Infrastructure Program to Replace Existing Pond Liners at the WWTP.

Mr. Brookey read the resolution into record requesting authorization to apply for a loan, in the amount of \$1,800,000, from the State of New Mexico Environment Department Construction Program Bureau Rural Infrastructure Loan Program to secure phase one of the funding to start the project.

Mr. Brookey stated that replacing liners at the Wastewater Treatment Plant has been a priority project, and that the design is almost complete.

Councilor Milo asked how many liners would be replaced. Mr. Brookey stated the project calls for complete re-lining five (5) of the six (6) ponds. Mr. McInturff stated that this project would be phase one (1) which will re-line three ponds. Mr. Brookey stated that the projected useful life for the selected material is 25 years.

Councilor Milo motioned to authorize submission of a loan application, second by Mayor Pro Tem Shattuck with a friendly amendment to item number two (2) and four (4) of the resolution, correcting Lawrence Brookey's title to "Public Works Director"; motion carried unanimously

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

Mr. Sera read into record the memo included in Council packets which states that five (5) public hearings have been conducted and that requests for sewer line re-routing have been received by the public via the Citizen Input Forms.

Mr. Sera stated that staff recommends the re-route of wastewater mains from the north wastewater system from the intersection of Ash and Santa Fe to Pine Street for the Community Development portion of funding as the 2012 CDBG Project.

Mr. Sera stated that Ms. Lucero, Executive Director of the Southwest Council of Government, would be giving an overview of what are eligible projects and how the CDBG Council looks at the applications.

Ms. Lucero stated that there has been funding changes within the past year, noting that there has been a decrease in funding allocations. Ms. Lucero stated that there is an increase in competition for those funds. Ms. Lucero informed Council that there is a push to include Mutual Domestic agencies to apply for the funding, which would greatly increase the number of applicants competing for the funds.

Ms. Lucero notified Council that our district representative for the CDBG Council, Sam Baca's, term has expired and a replacement is being sought.

Ms. Lucero stated that the CDBG Council is focusing heavily on public participation and whether the communities are meeting their basic needs, which include water and wastewater. Ms. Lucero stated that infrastructure projects are normally simpler to complete because they are regularly budgeted, which shows a commitment to provide services, as opposed to projects in which you have to add a line item to the budget for operation and maintenance, such as a new facility. Ms. Lucero stated that one of the newest rules for the CDBG program is that a set aside has been added for local governments to apply for housing projects. Ms. Lucero stated that communities can apply for planning, housing and emergency at any time and not affect a current CDBG construction project. Ms. Lucero stated that the planning rules have also been revamped in regards to the ranking and rating process, which is similar to the construction project and would keep consistency in the application process.

Ms. Lucero stated that the 2000 Census is still being used because the new figures have not been received for Low to Moderate Income Eligibility.

Mr. McInturff asked Ms. Pricilla what types of projects were least favored by the CDBG Council. Ms. Lucero stated that recreational projects were, because they don't meet basic needs. Facilities projects are also critiqued because it is difficult for communities to have a line item for operations and maintenance of new facilities. Ms. Lucero stated that when a project is awarded, funded and construction completed, it must be utilized for its intended purpose for its entire life.

Mr. McInturff clarified that even though there is a list of eligible project, there are only certain ones that the CDBG Council is looking to score well. Ms. Lucero affirmed, stating that most of those deal with health and safety.

Mayor Silva asked if Mr. Baca's position on the CDBG Council is appointed by the Governor. Ms. Lucero affirmed, further stating that a request has been made to have him re-appointed, but no response has been received. Ms. Lucero commended staff for their hard work and dedication to the CDBG Program.

Commissioner Enis motion to accept staff recommendation of the sewer line re-routing, second by Councilor Milo; motion carried unanimously.

Mr. McInturff stated that the sewer line project proposed will allow for upgrading of existing line to take on additional capacity. Mr. McInturff stated that this line is a remnant of the old system that ran to the Mimbres River.

Mr. Sera read the resolution into record, in which staff is requesting authorization to submit a CDBG application.

Councilor Enis motioned to approve the resolution as presented, second by Councilor Milo; motion carried unanimously.

6. Approval of Supplemental Agreement and Granting of Easements to Luna Energy Partners

Mr. McInturff stated that the supplemental agreement is the last standing item for the settlement agreement with Luna Energy. Mr. McInturff stated that Luna Energy lacked easements at Peru Mill as well as one by the sewer plant and another by the interstate underpass. Mr. McInturff stated that if the agreement is approved, Luna Energy Partners will pay the City \$15,000.

Mr. McInturff stated that staff recommends approval of the supplemental agreement for easements.

Mayor Pro Tem Shattuck motioned approval and execution of the supplemental agreement as presented by staff, second by Councilor Enis; motion carried unanimously.

7. Approval of Amendment #1 to the Participation Agreement between Proper Foods and the City of Deming

Mr. McInturff referred to Amendment No. 1 to the Project Participation Agreement with Proper Foods, stating that the payment for this year and the next two years be deferred. Mr. McInturff stated that the amortization scheduled is labeled as Exhibit B, but should be Exhibit A. Mr. McInturff stated that the letter from Proper Foods is Exhibit B.

Mr. McInturff stated that the money for this loan was given to the City by the State Economic Development Department (EDD) who used the City as a conduit to assist Proper Foods. Mr. McInturff stated that because the City is in a junior lien position, for the City to protect the security interest, we would have to foreclose the senior liens. Mr. McInturff stated that the only realistic alternative is to go along with the request at this point. Mr. McInturff stated that the State EDD drafted the Amendment on behalf of the City.

Mr. McInturff stated that management recommends approval of Amendment No. 1 to the Project Participation Agreement between the City and Proper Foods.

Mayor Silva stated that Proper Foods currently employs over 100 people. Mr. McInturff stated employment is approximately 105 to 114, and the loan funds have kept the plant open since 2008.

Mayor Pro Tem Shattuck motioned to approve Amendment No. 1 to the Participation Agreement with Proper Foods with the amendments of labeling the amortization schedule as Exhibit A, and the letter from Proper Foods as Exhibit B, second by Councilor Milo; motion carried unanimously.

8. Bids

a. Bid 12-02 Dumpster Bids

Mr. Brookey stated that the bid was to replenish the City’s solid waste department trash dumpsters. Mr. Brookey stated that three bids were received. Mr. Brookey stated that staff recommends purchasing sixty 3 cubic yard dumpsters at \$604.21 each, and forty-two 1 ¾ cubic yard dumpsters at \$364.21 each, for a total of \$51,549.00 including delivery, from Waste Systems Supply.

Councilor Milo motioned to accept the bid from Waste Systems Supply, second by Mayor Pro Tem Shattuck; motion carried unanimously.

b. Bid 12-03 Recycling Facility Asphalt Paving

Mr. Brookey stated that the bid is for placement and compaction of asphalt around the new recycling facility building located at the transfer station. Mr. Brookey stated that Renegade Construction out of Las Cruces was the low bidder.

Councilor Enis motioned to approve awarding the bid to Renegade Construction, second by Councilor Milo.

Councilor Milo stated that the State of New Mexico recently passed a regulation giving New Mexico companies a 5% preference for construction, and asked if the City could do a preference to keep business in Deming. Mr. McInturff stated that the question of whether the City can offer a preference would have to be referred to legal council. Mr. Brookey stated that New Mexico State Procurement has a 5% in state preference but it does not break it down to the local level.

Mayor Pro Tem Shattuck requested additional research to see if preference can be given to local businesses.

Mayor Silva called for a vote. There were no votes made. Motion did not carry.

Mayor Pro Tem Shattuck motioned to go with Deming Excavating provided that council gets back within three business days to ensure that procurement code has not been violated, and if the City is not violating the procurement code, he motioned to award the bid to Deming Excavating, and that if we are in violation, the motion is to go with Renegade Construction, second by Councilor Milo; motion carried unanimously.

(City Council received written notification from legal that it must accept the lowest bidder in the RFP because the RFP did not specify any weighted factor that a local business would receive preference).

c. RFP 11-24 Natural Gas Professional Services

Mr. Brookey read the memo into record in which a recommendation for natural gas professional services was presented. Mr. Brookey stated that staff is seeking approval to enter into negotiation with Bohannon Huston to address the City of Deming’s Natural Gas Professional Services needs.

Mayor Pro Tem Shattuck motioned to approve staff recommendation as presented by staff, second by Councilor Enis; motion carried unanimously.

9. Closed Session: To discuss the sale and purchase of industrial real estate, and the sale and purchase of farm property pursuant to NMSA 1978, Sections 10-15-1 (H) (7) of the Open Meetings Act.

Councilor Enis motioned to go into closed session To discuss the sale and purchase of industrial real estate, and the sale and purchase of farm property pursuant to NMSA 1978, Sections 10-15-1 (H) (7) of the Open Meetings Act, second by Councilor Milo;

ROLL CALL/VOTE

Mayor Pro Tem Shattuck	Aye
Councilor Milo	Aye
Councilor Enis	Aye

Motion carried.

10. Open Session: Motions if any

Mayor Silva stated for the record that there were no motions made during closed session and that only those items that were stated upon in the motion to close were discussed.

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

ROLL CALL/VOTE

Mayor Pro Tem Shattuck	Aye
Councilor Milo	Aye
Councilor Enis	Aye

Motion carried.

11. Adjourn Meeting

With no further business to conduct, Councilor Milo motioned to adjourn the meeting at 7:32 p.m., second by Councilor Enis; motion carried unanimously.

A Special City Council Meeting will be held on Thursday, October 13th, 2011 at 9:00 a.m. in Council Chambers.

The next Regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., November 14th, 2011.

CITY OF DEMING

Andres Z. Silva, Mayor

ATTEST:

Richard F. McInturff, Deputy Clerk