

CITY COUNCIL MEETING

MINUTES

July 20, 2021

Remote meeting in compliance with the New Mexico Open Meetings Act due to COVID-19 Pandemic.

Council Present:

Benny L. Jasso, Mayor

Joe "Butter Milo", Mayor Pro Tem

Dr. Victor Cruz, Councilor

Monica Topham, Councilor

Council Present (Telephonically):

Council Absent: Irmaisela "Irma" A. Rodriguez, Councilor

Staff Present: Aaron Sera, Administrator

Laura Holguin, Finance Director

Azucena Vargas, Administrative Assistant PWD

Alex Valdespino, Chief of Police

Jim Massengill, Public Works Director

Alexi Jackson, Community Services Director

Joe Owen, Fire Chief

Staff Present (Telephonically/Virtually):

Recording Secretary: Mary Jo Valdez, Municipal Clerk

Mayor Jasso called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance.

A quorum was present.

1. Consent Agenda

Mr. Sera presented the consent agenda to Council stating that there were no items to discuss.

Mayor Pro Tem Milo motioned to approve the consent agenda, as submitted; Councilor Topham second the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Topham Aye

Councilor Cruz Aye

Mayor Pro Tem Milo Aye

2. Public Forum

Mayor Jasso opened the meeting for public comment stating that comments entertained should not be related to any items on the agenda. Mayor Jasso closed the public forum.

3. Requests by Municipal Clerk and Municipal Court to Destroy Municipal Records Pursuant to the New Mexico Records Retention Schedule

Ms. Valdez stated that staff is working on organization of all records and will be coming forward with requests for destruction of those records that have been kept past requirements on the retention schedule.

Councilor Cruz motioned to approve the request to destroy municipal records as presented; second by Councilor Topham; motion was approved by the following roll call vote:

ROLL CALL VOTE

Mayor Pro Tem Milo	Aye
Councilor Topham	Aye
Councilor Cruz	Aye

4. Adoption of Amendment to City of Deming Personnel Policies and Procedures Manual in Section IV 4.3 Pertaining to the Application Process

Mr. Sera stated that the City's current policy is to retain the applications to be active for a period of 3 months; and to keep on records for a period of 12 months. Mr. Sera stated that the NM Records Retention Policy states they are to be retained for a 36-month period, which is the change being proposed to comply with State requirements.

Councilor Cruz motioned to approve the amendment to the City of Deming Personnel Policies and Procedures Manual in Section IV 4.3, pertaining to the application process, as presented; Councilor Topham second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye

5. Resolution 21-16: To Authorize the Acceptance of Airport Coronavirus Response Grant Program Funding from the Department of Transportation Federal Aviation Administration

Mr. Jackson stated that the resolution is required for the City's participation in receiving Coronavirus Response Aid from the FAA.

Councilor Milo asked if the funds are able to be used for payroll. Ms. Holguin stated that funds are for projects; however, a portion will be used to cover a portion of those salaries.

Mayor Pro Tem Milo motioned to approve the resolution, as submitted; Councilor Cruz second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Topham	Aye
Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye

6. Approval for Disposal of Used/Obsolete Property with a Fair Market Value of Greater than \$5,000

Ms. Holguin explained that the request is for two vehicles that were involved in a crash on Gold and Spruce streets, which will be removed off the books as they are no longer functional.

Mayor Pro Tem Milo asked if they were totaled. Ms. Holguin verified that they were.

Councilor Cruz motioned to approve the request to dispose of used/obsolete property, as submitted; Mayor Pro Tem Milo second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Topham	Aye
Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye

7. Approval to Rescind the Award for Bid #21-05 and Authorization to Re-Bid

Ms. Holguin read a memorandum into record (attached)

Councilor Cruz asked for an explanation. Ms. Holguin stated that the protest came about after a public records inspection. Ms. Holguin further stated that due to Covid-19 requirements, staff was not in the office to publicly open the bids; in addition to the notice of award had not been sent to all bidders on a timely fashion. Ms. Holguin stated that the best option is to rescind the bid and re-bid. Ms. Holguin stated that staff has identified the areas which needed addressing to prevent any future occurrences; adding that staff was placed on Administrative Leave during this timeframe and had been addressed.

Councilor Cruz motioned to approve to rescind Bid #21-05 and Authorize staff to re-bid, as submitted; Mayor Pro Tem Milo second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye

8. Public Hearing; To Consider an Amendment to Title 4, Chapter 2, Section 9 of the Municipal Code Pertaining to Exempt Facilities for Event Permits

Mayor Jasso conducted a public hearing to consider the Amendment to Title 4, Chapter 2, Section 9 of the Municipal Code Pertaining to Exempt Facilities for Event Permits.

Ms. Valdez stated that the ordinance would add City and Luna County owned locations to the list which were the Mimbres Valley Learning Center, Starmax Entertainment Center, Trees Lake, and the proposed Westside Revitalization Project also known as the “Container/Incubation Project”

Mayor Jasso asked if Council had any questions of staff.

Councilor Cruz asked if it would be for City or County Events. Ms. Valdez explained that if the County or City sponsored any events, they would be covered; all other entities and or private events would require a permit.

Mayor Jasso opened for public comments.

Ms. Debbie Troyer, Deming Chamber of Commerce, asked if Non-Profit entities needed a permit. Ms. Valdez stated that if it is a sponsored event, they would not be required to have one as it would be coordinated through the County or City; and added that it was not normal practice for the City to sponsor an event as there are times that they fund non-profit entities.

Ms. Troyer stated that, in cases as such, it would depend on the rapport the non-profit had with either the County or City which didn't seem fair.

Ms. Valdez stated that the proposed amendment, to her understanding, is only to add the additional venues on the list and not pertaining to permitting practices for entities.

With no further comments, Mayor Jasso closed public comments and asked Council if they were prepared to make a motion.

Mayor Pro Tem Milo motioned to table the proposed amendment to allow staff to address the concerns and also consider adding in the Amistad Splash Pad, the Sam Baca Aquatic Center, and any other locations as necessary; Councilor Cruz second the motion; motion was tabled until staff is ready to present a revised version by the following roll call vote:

ROLL CALL VOTE

Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye

9. Public Hearing To Consider an Amendment to Title 3, Chapter 13, Sections 1F, 2B, 4B, and 5A of the Municipal Code Pertaining to Mobile Food Vendors

Mayor Jasso conducted a public hearing to consider the Amendment to Title 3, Chapter 13, Sections 1F, 2B, 4B, and 5A of the Municipal Code Pertaining to Mobile Food Vendors.

Mr. Sera addressed Council stating that the amendments to this ordinance have been needed for quite some time adding that

Ms. Valdez stated that the proposed ordinance is to fix some issues necessary to process business licenses and that staff would be looking to revise more in the future.

Mayor Jasso asked if Council had any questions of staff.

Mayor Jasso opened for public comments.

Ms. Utley stated that there are currently 16 mobile food vendors operating in the City.

Ms. Valdez stated that many of those 16 have not initiated the proper procedures to conduct business correctly.

Mr. Daniel Reyes stated that the ordinance contains portions that are vague and that the proposed changes would help the process. Mr. Reyes stated that the beginning of these amendments will help the ordinance be more clear.

Ms. Troyer stated that she encouraged the amendment and agreed that it needed a lot of work; adding that she is excited for more to come.

Mayor Pro Tem Milo stated that there has to be a balance between where they are allowed to park because of current businesses that are food establishments/restaurants.

Ms. Valdez stated that when the International Fire Code's newest edition is adopted, requirements for mobile food vendors will become more stringent and the City will have no option to waive these requirements.

Mr. Reyes mentioned the necessity of a requirement to request insurance from mobile food vendors.

With no further comments, Mayor Jasso closed public comments and asked Council if they were prepared to make a motion.

Councilor Cruz motioned to approve the amendment, as presented; Councilor Topham second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Mayor Pro Tem Milo	Aye
Councilor Cruz	Aye
Councilor Topham	Aye

10. Quasi Judicial Public Hearing: To Consider a Variance Request for Mr. Nd Mrs. Butcher located at 1410 Mountainair Rd., within the City Limits

Mayor Jasso asked that all parties who are signed in or plan to provide testimony or address Council for the Quasi-Judicial Public Hearing, swear in and administered the swearing in of all parties.

Mayor Jasso conducted a quasi-judicial public hearing to consider Variance Request for Mr. Nd Mrs. Butcher located at 1410 Mountainair Rd., within the City Limits
Mayor Jasso asked if Council had any conflicts of interest; they did not.

Mr. Jackson addressed Council The applicant, Mr. and Mrs. Butcher, are requesting a variance to erect a 6 ft. R-Panel fence around the subject property.
The applicant wishes to comply with current regulations requiring a line of sight free from obstructions on a corner lot; however, because of the circumstances involving the property where there has been a lot of foot traffic in and through their property as well as vandalism to their home/property, they are requesting a variance of 15' setbacks in lieu of the 30 ft. requirement.

The applicants, if approved with conditions, agree to place wrought iron within the first 15' to comply with the line-of-sight requirements on each corner along Florida Street and Mountainair Rd.

During the Planning and Zoning meeting on June 21, 2021, the variance was denied with no consideration about alternative options. However, there have been other variances approved in regard to the same situation.

Options are to:

1. Recommend Approval
2. Recommend Approval with Conditions
3. Recommend Denial

Staff has no objections to the approval of the variance.

Mayor Jasso asked if Council had any questions for staff.

Councilor Cruz asked if the variance would be from the street to the fence and asked if the fence is a panel fence.

Mr. Jackson clarified that the fencing would be wrought iron the first 15 ft on top to allow line of sight and would follow by R Panel fencing.

Councilor Cruz asked if there was a right-of-way at that location. Mr. Jackson stated that there is an easement which would not impact the fenced area.

Mayor Jasso asked if the applicant would like to address City Council.

Mr. and Mrs. Butcher addressed City Council stating that their request has resulted from the need to protect their property from further reoccurring damage, as they have had their windows shot with steel marbles, vagrants taking items from within their yard, and they've found questionable people sleeping on their property.

Mayor Jasso asked if Council had any questions of the applicant.

Mayor Pro Tem Milo asked the fence would drop down to the level of providing a clear line of sight. Mrs. Butcher stated that it would be wrought iron the first 15 feet from the intersection going both directions.

With no further comments from all those sworn-in nor public comments, Mayor Jasso asked Council for a motion.

Councilor Cruz motioned to approve the variance request to allow the Butchers to erect the fence as proposed with the conditions for the line of sight at a 15' setback on each side to be wrought iron and the remaining area to be 6 foot R-panel fencing; Councilor Topham second the motion;

Discussion continued with Councilor Cruz asking Chief Valdespino to ask that the Police Department provide more patrolling in the area to address the issues that have been ongoing. Chief Valdespino stated he would inform his department; adding that the Courts deem the violators as incompetent to stand trials unless they commit a violent crime.

The motion was approved by the following roll call vote:

ROLL CALL VOTE

Mayor Pro Tem Milo	Aye
Councilor Topham	Aye
Councilor Cruz	Aye

11. Administrator's Report

Mr. Sera addressed Council reporting on the following items.

- Employment Issues – Ongoing with shortages in the Fire Department and Police Department. Discussions of employee retention are underway, and changes will be going before City Council at the Special Meeting later this month. A consultant has been hired to perform a City wide study to find incentives to retain or recruit applicants. There are currently 12 positions unfilled.
- K-Mart Building is under contract for a cost estimate for City Hall to move to the proposed location and the Police Department will move to the current City Hall to provide room for their department personnel
- Building Inspection Discussions are underway with Municipal League to determine if anything can be done. Conversations have been had with Silver City and Luna County about a Memorandum of Agreement to hire a Certified Building Official and split costs as Silver City has a good rapport with the State CID.

Mayor Pro Tem Milo stated that having competitive salaries may solve some problems in filling positions; adding that the community's safety is what it's about.

Councilor Cruz stated that it is understood that salaries are being spoken about; adding that the County is going up on their pay scales. Councilor Cruz also stated that salaries needed to be more competitive; as well as educating newer employees on the benefit aspect.

Ms. Holguin stated that she is working with Chief Owen to schedule with the Fire Department to explain the salary and benefits package.

12. Closed Session: To Discuss the disposal and acquisition of real property or water rights, Pursuant to NMSA 1978 Section 10-15-1 (H) (8) of the open Meetings Act

Mayor Pro Tem Milo motioned to go into closed session, pursuant to NMSA 1978 Section 10-15-1(H)(8) of the Open Meetings Act; Councilor Cruz second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Topham	Aye
Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye

13. Open Session: Motions if any

Mayor Pro Tem Milo motioned to go into open session; Councilor Cruz second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Topham	Aye
Mayor Pro Tem Milo	Aye
Councilor Cruz	Aye

Mayor Jasso stated that there were no motions made during closed session.

Mayor Jasso asked if Council had any motions.

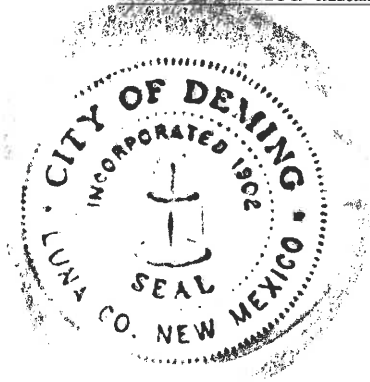
Councilor Topham motioned to approve the purchase of property north of the K-Mart building at an amount of \$220,000 plus closing costs; Mayor Pro Tem Milo second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

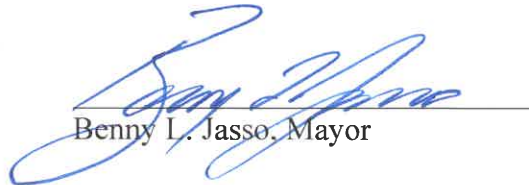
Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye

14. Adjourn Meeting

With no further business to discuss, Mayor Jasso entertained a motion to adjourn the meeting. Mayor Pro Tem Milo motioned to adjourn the meeting; Councilor Cruz second the motion; motion carried unanimously. The meeting adjourned at 7:21 p.m.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal Clerk

**CITY OF DEMING
RESOLUTION NO. 21-16**

**A RESOLUTION AUTHORIZING ACCEPTANCE OF
AIRPORT CORONAVIRUS RESPONSE GRANT PROGRAM (ACRGP) FUNDING
FROM THE DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION (FAA)**

WHEREAS, the City of Deming, New Mexico, has the legal authority to apply for, receive and administer FAA grant funds; and,

WHEREAS, the ACRGP Grant is provided in accordance with the Coronavirus Response and Relief Supplemental Appropriations Act, Division M of Public Law 116-260.

WHEREAS, the purpose of the ACRGP grant is for purposes directly related to the Deming Municipal Airport to prevent, prepare for, and respond to coronavirus.

WHEREAS, the City of Deming is accepting the terms of the FAA's Airport Coronavirus Response Grant Program offer of \$9,000.

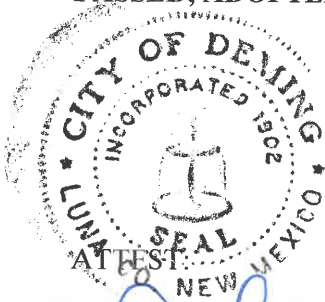
NOW THEREFORE, BE IT RESOLVED by the governing body of the City of Deming, New Mexico, that:

1. The City of Deming, authorizes the Community Services Director or City Administrator to enter into an agreement with FAA on behalf of the citizens of the City of Deming, and to execute all documents related to this grant and direct staff to take other actions necessary to implement this Resolution.

PASSED, ADOPTED, AND APPROVED this 20th day of July 2021.

CITY OF DEMING, NEW MEXICO

By 
Benny L. Jasso, Mayor




Mary Jo Valdez, Municipal City Clerk

ORDINANCE NO. 1299

AN ORDINANCE AMENDING TITLE 3, CHAPTER 13, Section 1F; Section 2B; Section 4B; and Section 5A, OF THE MUNICIPAL CODE OF THE CITY OF DEMING, NEW MEXICO

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEMING, NEW MEXICO:

1. Title 3, Chapter 13, Sections 1F; 2B; 4B, and 5A of the City of Deming Municipal Code is hereby amended with the following:

3-13-1 DEFINITIONS:

F. "Mobile vendor" means a seller of foods from a mobile food preparation van, cart or other conveyance, whether upon the public streets, alleys or public property or on private property. F. "Mobile vendor" means a transient business selling or delivering food or goods in the city.

3-13-2 MOBILE FOOD VENDOR BUSINESS–LICENSE REQUIRED–EXEMPTIONS:

B. Any mobile vending conducted within a public park as part of a street fair, carnival, athletic activity, or other public event authorized by and in accordance with a permit issued by the City for that purpose.

1. Public event facilitator/sponsor is responsible for providing the City with food handling and inspection permits from NM State Environment Department for each vendor participating in public event.

3-13-4 LICENSE APPLICATION–CONTENTS:

B. The application for a mobile vendor business license shall state the name and address of the applicant; the vehicle license numbers of all motor vehicles from which the applicant proposes to conduct business; a description of the general type of food or goods proposed to be sold by the applicant; and the address or addresses where the applicant proposes to engage in business.

1. Additional locations must be submitted to be reviewed by staff and approved prior to engaging in business, at no additional cost provided that the license has not yet expired.
 - a. A site map, for each location, with information as listed in the City Code (3-13-3A1-7), is required.

3-13-5 LICENSE FEE:

A, Business license fees for Mobile Food Vendors shall be a \$45.00 annual fee, renewed in January of each year.

1. Annual Fee will cover all approved locations that are submitted throughout the annual term of the permit.

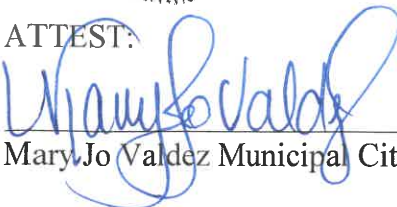
PASSED, ADOPTED, AND APPROVED, this 20th day of July 2021.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez Municipal City Clerk