



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

CITY COUNCIL MEETING

May 12, 2014

4:00 P.M. CITY COUNCIL WORKSHOP
6:00 P.M. CITY COUNCIL MEETING

AGENDA

Call to Order/Pledge of Allegiance

1. Consent Agenda

- A. Minutes - Airport Commission Meeting 4/8/14
- B. Minutes - Planning and Zoning Commission Meeting 5/05/14
 - a. Recommendation for a Special Use Permit for a Message Board Sign Located at 4600 E. Pine Street *(to be presented for consideration as a Quasi-Judicial Public Hearing later on this agenda).*
 - b. Recommendation for a Variance Request to Allow an RV to be Located at the ASARCO site for Security Purposes *(to be presented for consideration as a Quasi-Judicial Public Hearing later on this agenda).*
 - c. Recommendation for Consideration of an Ordinance Amending Title 12 of the Deming City Code: Amending Title 12, Chapter 3 of the Deming City Code and adding Section 12-3-1, "G Government District" *(to be presented as a Public Hearing later on this agenda).*
- C. Minutes - Marshall Memorial Library Board Meeting 4/29/14
- D. Out of State Travel Request for D.J. Ritchlin to travel to attend the Certified Natural Gas Vehicle Maintenance Training in Las Vegas, Nevada on 6/9 – 6/12, and to Charlotte, North Carolina on June 24 – 27.

- 2. Public Forum
- 3. Presentation by Craig Roepke pertaining to the Arizona Water Settlement Act (AWSA)
- 4. Resolution to Consider Authorizing the Subscription of Water Delivered by the Southwest New Mexico Water Supply Project Eligible Under the Arizona Water Settlement Act and Proposed to the Interstate Stream Commission
- 5. Presentation by Reginald Ritchie pertaining to the Library Project
- 6. Resolution to Authorize a Phased Design Approach and Pursue Development of a Funding Strategy of the Library Expansion
- 7. Ratification of Proclamation Declaring May 1-7, 2014 as Youth Week
- 8. Approval of Committee with Authority to Dispose of Fixed Assets
- 9. Consideration of Approval of the Memorandum of Understanding Between the City of Deming, Deming Public Schools District, County of Luna, and the Deming/Luna County Economic Development Corporation to Finalize the Position of Economic Development Coordinator

10. Consideration of Approval of the Memorandum of Understanding for Enforcement of the Extra-Territorial Zoning Ordinance and Other County Ordinances Within the Extra-Territorial Zone
11. Public Hearing to Consider Amending Title 1 of the Deming City Code to Update the Local Economic Development Ordinance
12. Public Hearing to Consider Amending Title 12 of the Deming City Code for a New Government District
13. Quasi-Judicial Public Hearing to Consider the Request for a Special Use Permit for a Message Board Sign for Quality Inn at 4600 E. Pine St.
14. Quasi-Judicial Public Hearing to Consider the Request for a Variance to place an RV onsite at the ASARCO Property for Security Purposes
15. Bids:
 - a. Bid #14-16 External Auditor Services
16. Closed Session to Discuss Potential Litigation and Purchase of Real Estate pursuant to NMSA 1978, Section 10-15-1 (H)(7), (H)(8), of the Open Meetings Act.
17. Adjourn Meeting

There will be a Special City Council Meeting on May 22, 2014 at 9:00 a.m.

The next regular City Council Workshop and Meeting are scheduled for June 9, 2014 at 4:00 and 6:00 p.m.

CITY COUNCIL WORKSHOP MINUTES May 12, 2014

Council Present: Benny Jasso, Mayor

Linda Franklin, Mayor Pro Tem

Council Absent: Joe "Butter Milo, Councilor
Dr. Victor Cruz, Councilor

David L. Sanchez, Councilor

Staff Present: Richard F. McInturff, City Administrator
Aaron Sera, Asst. City Administrator
Wesley Hooper, Community Svcs. Dir.
Gina Gentile, City Planner II

Edgar Davalos, Fire Chief
Lloyd Valentine, Financial Svcs. Mgr.
Brandon Gigante, Police Chief
Jim Massengill, Public Works Director

Recording Secretary: Lila Jasso, Administrative Secretary/Assistant Deputy Clerk

Mayor Jasso and staff members of the City of Deming, New Mexico held a workshop on May 12, 2014 at 4:00 p.m. to discuss items of the City Council Agenda in preparation for the regularly scheduled meeting, held at 6:00 p.m. the same day. The following items of the agenda were discussed:

Consent Agenda: Mr. McInturff asked about item E. Out-of-State Travel request for Mr. Ritchlin to attend the Certified Natural Gas Vehicle Maintenance Training. He expressed that the City has invested in training and certifying him. Mr. McInturff suggested that a contract be executed to ensure that Mr. Ritchlin would reimburse the City for his training, if he terminates his employment prior to the designated time frame in the contract.

Presentation by Craig Roepke pertaining to the Arizona Water Settlement Act (AWSA): Mr. McInturff stated that Mr. Roepke's presentation will give a better understanding of the Arizona Water Settlement Act (AWSA).

Resolution to Consider Authorizing the Subscription of Water Delivered by the Southwest New Mexico Water Supply Project Eligible under the Arizona Water Settlement Act and Proposed to the Interstate Stream Commission: Mr. McInturff read the section of the resolution where it states that the City of Deming will commit to subscribe to 2,500 acre feet of water annually from the Southwest New Mexico Water Supply Project. He also stated that the Interstate Stream Commission (ISC) is looking for commitments for the project in Southwest New Mexico, four-county region. The ISC has until December 2014 to notify the Secretary of the Interior if they're going to do a project in southwest New Mexico. Mr. McInturff stated that the project may not come to fruition until ten to fifteen years from now. However, if nothing is done at this time, the four-county region will lose \$62 million and 14,000 acre ft. of water. If the project goes forward, there will be a diversion project on the Gila which will pipe a supply of water through the

mining district (Silver City, Bayard, Santa Clara, Hurley and then down to Deming). The allocation in that diversion project will be 10,000 acre/ft. Deming was asked what they would do with the water from the diversion project. Mr. McInturff stated that, more than likely, it would be stored in a storage tank near Peru Mill and incorporated into the City's water distribution system.

Presentation by Reginald Ritchie pertaining to the Library Project: Mr. McInturff stated that Mr. Ritchie will come in to make the presentation. He stated that there been some needs identified at the library due to the changing mission of libraries. Mr. McInturff stated that he has seen Mr. Ritchie's presentation and feels it would be beneficial for Council to see, as well.

Resolution to Authorize a Phased Design Approach and Pursue Development of a Funding Strategy of the Library Expansion: Mr. McInturff stated that this resolution recommends that Council authorize a budgeted phase design approach and instructs staff to pursue development of a funding strategy to support the construction phase of the project.

Ratification of Proclamation Declaring May 1-7, 2014 as Youth Week: Mayor Jasso will handle the ratification of the Proclamation for Youth Week.

Approval of Committee with Authority to Dispose of Fixed Assets: Mr. Valentine will present the candidates for the Committee with Authority to Dispose of Fixed Assets to Council.

Consideration of Approval of the Memorandum of Understanding between the City of Deming, Deming Public Schools District, County of Luna, and the Deming/Luna County Economic Development Corporation to Finalize the Position of Economic Development Coordinator: Mr. McInturff stated that there is an amendment to the handout regarding Memorandum of Understanding. He stated that Deming Public Schools will be a part of this 4-way MOU. He noted that in section D., the breakdown of funding will change to \$26,250 each for the City and County, \$15,000 for DPS, and \$7,500 for DLCEDC; for a total of \$75,000.

Consideration of Approval of the Memorandum of Understanding for Enforcement of the Extra-Territorial Zoning Ordinance and Other County Ordinances within the Extra-Territorial Zone: Mr. McInturff stated that this MOU is a result of the meeting held the previous week between the City and County. He explained that a Joint Powers Agreement will have to be amended to name the County as the lead administrating agent in the ETZ. There will have to be an agreement with the County to allow the City building inspectors to provide 3rd-party services to the County and perform inspections in the County. The agreement will note that County will reimburse the City for those services.

Public Hearing to Consider Amending Title 1 of the Deming City Code to Update the Local Economic Development Ordinance: Mr. McInturff stated that this amendment is to

update the current ordinance and bring it up to conformance with the current State requirements.

Public Hearing to Consider Amending Title 12 of the Deming City Code for a New Government District: Mr. McInturff stated that this amendment is to add the “G-Government” district to the City Code. This ordinance will establish the district and then the districting map would need to be updated, as well. He explained that the Government District allows any governmental activity that benefits the citizens, but if it was to be leased out for non-governmental use, it would have to go to a public hearing similar to State Statute 3-54-1. This would allow for more protection for the citizens. Two exceptions for Governmental District would be the Peru Mill area and Industrial Park near the airport; they would remain Industrial use.

Quasi-Judicial Public Hearing to Consider the Request for a Special Use Permit for a Message Board Sign for Quality Inn at 4600 E. Pine St.: Ms. Gentile will present this request to Council.

Quasi-Judicial Public Hearing to Consider the Request for a Variance to place an RV onsite at the ASARCO Property for Security Purposes: Ms. Gentile will present this item to Council. Mr. McInturff stated that ASARCO has recently changed ownership to Geo Southwest, which took place a couple weeks ago.

Bids:

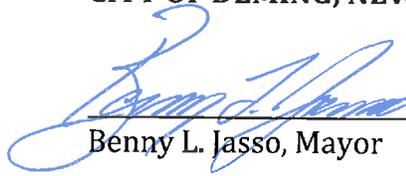
- a. **Bid #14-16 External Auditor Services:** Mayor Pro Tem Franklin asked Mr. Valentine that since the bid was based on the evaluation process, she questioned why it was awarded to the highest bidder. Mr. Valentine stated that the bid was not awarded solely on cost, there were other criteria involved in the evaluation process. Mr. Valentine will have that information for the Council meeting.

Closed Session to Discuss Potential Litigation and Purchase of Real Estate pursuant to NMSA 1978, Section 10-15-1 (H)(7), (H)(8), of the Open Meetings Act: Mr. McInturff stated that the items mentioned will be discussed in closed session and no handouts will be needed for the closed session.

Adjourn Meeting: With no further business to discuss, Mayor Jasso adjourned the workshop at 4:25 p.m.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Richard F. McInturff, Clerk

CITY COUNCIL MEETING MINUTES

May 12, 2014

Council Present: Mayor Benny L. Jasso
David Sanchez, Councilor
Joe "Butter" Milo, Councilor

Linda Franklin, Mayor Pro Tem
Dr. Victor Cruz, Councilor

Council Absent: None

Staff Present: Richard F. McInturff, City Administrator
Wesley Hooper, Community Svcs. Dir.
Jim Massengill, Public Works Director
Edgar Davalos, Fire Chief
Angela Wilds, Asst. Library Director
Ricardo Molina, Gas Dept. Foreman

Aaron Sera, Asst. City Administrator
Brandon Gigante, Police Chief
Lloyd Valentine, Financial Svc. Mgr.
Gina Gentile, City Planner II
Jim Foy, City Attorney

Recording Secretary: Lila Jasso, Administrative Secretary/Asst. Deputy Clerk

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

1. Consent Agenda

Mayor Jasso entertained a motion from Council regarding the Consent Agenda.

Mr. McInturff stated that Management recommends approval of the Consent Agenda.

Councilor Milo motioned the approval of the Consent Agenda, as presented. Councilor Sanchez seconded the motion, motion carried unanimously.

2. Public Forum

A public comment session was entertained.

3. Presentation by Craig Roepke pertaining to the Arizona Water Settlement Act (AWSA)

Mr. Roepke, Deputy Director of the New Mexico Interstate Stream Commission and his colleague, David Anderson, gave a briefing and an update on the Arizona Water Settlement Act (AWSA).

4. Resolution to Consider Authorizing the Subscription of Water Delivered by the Southwest New Mexico Water Supply Project Eligible Under the Arizona Water Settlement Act and Proposed to the Interstate Stream Commission

Mr. McInturff presented this item to Mayor and Council. He read the resolution into record. He stated that the adoption of this resolution will send a message to the Interstate Stream Commission (ISC) that the City of Deming is serious about utilizing and developing a water diversion project. Mr. McInturff stated that Mr. Roepke's presentation was very informative in regards to the current conditions regarding the water supply. Mr. McInturff recommended that Council look favorably upon this resolution.

Councilor Milo asked if there is a deadline to respond to this request. Mr. McInturff stated that the ISC would need to notify the Secretary of Interior by December 2014 as to whether it will develop a diversion project. If not, 14,000 acre feet will be lost along with \$62 million. If nothing is done by this time, the whole Gila River region will be deprived of a new water source.

Mayor Pro Tem Franklin moved to approve the resolution to consider authorizing the subscription of Water Delivered by the Southwest New Mexico Water Supply Project Eligible Under the Arizona Water Settlement Act and Proposed to the Interstate Stream Commission. Councilor Sanchez seconded the motion; motion carried unanimously.

5. Presentation by Reginald Ritchie pertaining to the Library Project

Mr. Ritchie stated that he has been commissioned to do a study of the existing library. He noted that he conducted the original study of the library in 2004 when the Garcia building was remodeled from the Civic Center to the Library. He stated that at that time, the library was at capacity, as far as books went. From that point, the State has added many new requirements for public libraries which involve the use and availability of computers for the public to utilize. Mr. Ritchie also stated that the children's library is growing rapidly and has caused a need for more space due to the relationship with the schools in the area. Another component that has been addressed is a space for community functions.

Mr. Ritchie presented his proposal for the Library Project based on his study. He began by stating that the project was not named the Deming Library, but the Deming Cultural Center because of the needs to the community. The actual name of the building would be decided at a later date. He went on to give his in depth presentation.

Councilor Cruz asked Mr. Ritchie about the accommodation of computer labs in the proposals he has presented. Mr. Ritchie answered that the existing space in the library will continue to accommodate the patrons to use their computers via WIFI access. He explained that the computer labs will mostly be used for classroom space to teach patrons how to use their computers and internet. Mr. McInturff interjected that because of the evolving purpose of public libraries, the computer labs would allow for the much needed additional computers.

Mayor Pro Tem Franklin also interjected that the community meeting rooms would also be a source of revenue for the City, as they could be rented out for meetings or other gatherings.

Councilor Cruz agreed that the building should be a cultural reflection in regards to the architectural aspect; and would like to see a coffee shop in the building.

Councilor Sanchez asked Mr. Ritchie about parking in the area. Mr. Ritchie stated that there is the possibility of a lot of street parking along Spruce and Platinum Streets. Councilor Sanchez still expressed his concern about the parking.

6. Resolution to Authorize a Phased Design Approach and Pursue Development of a Funding Strategy of the Library Expansion

Mr. McInturff presented the resolution to Mayor and Council and read it into record.

Councilor Cruz motioned to approve the Resolution to Authorize a Phased Design Approach and Pursue Development of a Funding Strategy of the Library Expansion, as presented. Councilor Milo seconded the motion; motion carried unanimously.

7. Ratification of Proclamation Declaring May 1-7, 2014 as Youth Week

Mayor Jasso presented the proclamation to Council and read it into record. He stated that the proclamation was previously signed on April 15, 2014.

Mayor Pro Tem Franklin moved to approve the ratification of the proclamation to declare May 1-7, 2014 as Youth Week. Councilor Sanchez seconded the motion; motion carried unanimously.

8. Approval of Committee with Authority to Dispose of Fixed Assets

Mr. Valentine presented this item to Mayor and Council. He noted that this memorandum has come before City Council in order to authorize specific City staff by position or titles, rather than specific people, to the committee with Authority to Dispose of Fixed Assets.

The following recommendation was made:

Primary

Mayor
Mayor Pro Tem
City Administrator

Alternate

Any non-Mayor Pro Tem Councilor
Any non-Mayor Pro Tem Councilor
Community Services Director

Councilor Sanchez moved to approve the Committee with Authority to Dispose of Fixed Assets, as presented. Mayor Pro Tem Franklin seconded the motion; motion carried unanimously.

9. Consideration of Approval of the Memorandum of Understanding Between the City of Deming, Deming Public Schools District, County of Luna, and the Deming/Luna County Economic Development Corporation to Finalize the Position of Economic Development Coordinator

Mr. McInturff presented the Memorandum of Understanding to Mayor and Council. He stated that the core of the MOU is to identify the scope for the Economic Development Coordinator position. He noted the contributions from all entities involved with the City and County contributing \$26,250 each, the DPS will contribute \$15,000, and the DLCEDC shall contribute \$7,500. Mr. McInturff also noted that in return for DPS contribution to the Economic Development Coordinator position, the DLCEDC will be exempt for annual cost of members for six (6) staff and a permanent voting seat on the DLCEDC Board to be held by the Superintendent and support the DLCEDC By-laws for Deming Public Schools Career Tech curricula/programs and preparation for job placement of Deming High School graduates.

Councilor Sanchez questioned whether a new MOU would have to be signed once the new DPS Superintendent enters his position. Mr. McInturff stated that would not be necessary and that this agreement would carry over to the new Superintendent's term.

Councilor Milo asked if once the Economic Development Coordinator was hired, if the Board would be able to fire this person. Mr. McInturff stated that in the MOU in section 2C, it states that all hiring, terminations, and discipline must follow the City's Personnel Ordinance, Personnel Policies and Procedures Manual, and Administrative Regulations. Mr. McInturff stated that the Board could make recommendations, but the City would have final authority regarding personnel matters.

Councilor Sanchez moved to approve the Memorandum of Understanding Between the City of Deming, Deming Public Schools District, County of Luna, and the Deming/Luna County Economic Development Corporation to Finalize the Position of Economic Development Coordinator, as presented. Mayor Pro Tem Franklin seconded the motion; motion carried unanimously.

10. Consideration of Approval of the Memorandum of Understanding for Enforcement of the Extra-Territorial Zoning Ordinance and Other County Ordinances Within the Extra-Territorial Zone

Mr. McInturff stated that pursuant to the meeting with the County, the City presented a proposal and it was decided that it would take three agreements to solidify the Extra-Territorial Zoning.

The first of these agreements would be a Joint Powers Agreement (JPA), which has been assigned to Mr. Foy to identify if a new JPA would be needed, or if an amendment would suffice.

The second agreement would be this MOU; which is the reason it is being presented at this meeting.

The third, would be a general agreement and letter agreement to be approved by the state Construction Industries Division for building inspections in the ETZ.

Mr. McInturff stated that going forward; the County would become the administrative entity in the ETZ, rather than the City. The City would exercise its authority through the ETZA with its two members on that Committee.

Mr. McInturff noted that the scope of this agreement would be to provide the enforcement of the Extra-Territorial Zone, ETZ zoning ordinances, and other County ordinances within the ETZ. He stated that the jurisdiction boundary was agreed upon by the City and County, and that any change in the ETZ boundary would have to be agreed upon by both entities.

He went on to say that the County, acting under the authority of the County Manger, shall be the administering agency for code enforcement within the ETZ under this Agreement.

He went on to discuss the enforcement section, in which under section 4.2 he stated that the City agrees to pay the County \$25,000, annually, toward the employment of the new code enforcement officer for the purpose of enforcing ordinances with the ETZ. He noted that the City

agrees to convey to the County, on a one-time basis only, one motor vehicle for the sole purpose of code enforcement within the ETZ.

Mr. McInturff stated that an amendment would be made to the term of this Agreement to reflect that it shall commence upon adoption by both entities. Mr. Foy stated that the delay is due to him waiting for a response from the State-Construction Industries Division.

Mayor Pro Tem Franklin moved to approve the Memorandum of Understanding for Enforcement of the Extra-Territorial Zoning Ordinance and Other County Ordinances Within the Extra-Territorial Zone, with the change to the term to read that it shall commence upon adoption by both entities and shall continue until terminated by written mutual agreement of both parties. Councilor Sanchez seconded the motion; motion carried unanimously.

11. Public Hearing to Consider Amending Title 1 of the Deming City Code to Update the Local Economic Development Ordinance

Mr. McInturff stated that this amendment to Title 1, as presented, would delete Chapter 15 of the Local Economic Development Ordinance (LEDA) in its entirety and replace with the proposed ordinance. The reason for the amendment is that the State has imposed new requirements and this would bring the ordinance back into conformance per State statute. Mr. McInturff explained to those new Council members what a LEDA is.

Councilor Cruz asked if the LEDA has been used within the last year. Mr. McInturff stated that it has not. He gave Councilor Cruz brief history on the use of this ordinance in the past.

Mayor Jasso opened the public hearing to the public for comments.

Larry Caldwell, 711 N. Zinc, wished to make a statement. He noted his several suggestions to amend the ordinance.

Mr. McInturff stated that he recommends that the ordinance be approved, as is, and that Mr. Caldwell's recommendations be taken into consideration so long as the ordinance remains in compliance with the State statutes, as it is very specific. Mr. McInturff stated that he would recommend Mr. Foy look at the suggestions and make sure it is in compliance with the State statute.

Mr. Foy noted that although Mr. Caldwell's recommendations were thoughtful and artful in what he said. However, there was a goal of limiting the ability to do a local economic development plan; and his suggestions seems to be more limiting than expanding and takes from the flexibility of this ordinance.

Councilor Cruz, Mayor Pro Tem Franklin, and Mr. McInturff entertained a discussion regarding previous LEDA projects.

Councilor Milo moved to adopt the amendment to Title 1 of the Deming City Code to Update the Local Economic Development Ordinance, and staff takes the public comments into consideration. Councilor Sanchez seconded the motion; motion carried unanimously.

12. Public Hearing to Consider Amending Title 12 of the Deming City Code for a New Government District

Mr. McInturff referred to the Ordinance to Amend Title 12 and to the zoning map. He stated that the City is trying to establish the new zoning category. He went on to cite Section 12-4P-3: Use Regulations, A, B, and C; Section 12-4P-4 Airport Property Exempted, and 12-4P-5: Use Restrictions.

Mr. McInturff stated that the City needs to establish the zoning and then update the zoning map.

Mayor Jasso opened the public hearing to public comment.

Larry Caldwell, 711 N. Zinc, stated that at the last meeting he asked staff and Council the definition of Government "G" district, no one could give him a straight answer. He stated that he objects to using "G" Government designation and that only true government used areas should be designated this way. He objects to using "G" on non-governmental uses.

Edward Khanbajian, 1721 E. Pine St., stated he agrees with Mr. Caldwell. He stated that this is like a Carte le Blanche and that all large companies that come into Deming seem to purchase or use governmentally owned land. He asked if this designation, "G", would exempt anyone from any rules and regulations according to the ordinances. He feels that there is a double standard. Mr. Khanbajian asked if the map that is displayed is current. Mr. McInturff stated that the current map would be updated, if this ordinance is approved.

Mayor Pro Tem Franklin moved to approve the Ordinance Amending Title 12, Chapter 3, Section 12-3-1, as presented. Councilor Sanchez seconded the motion; motion carried unanimously.

13. Quasi-Judicial Public Hearing to Consider the Request for a Special Use Permit for a Message Board Sign for Quality Inn at 4600 E. Pine St.

Mayor Jasso called the public hearing to consider the request for Special Use Permit for a Message Board Sign for Quality Inn at 4600 E. Pine Street. He confirmed that Council had no conflicts of interest; that the public notices were properly posted; and swore in all parties who would be giving testimony.

Ms. Gina Gentile, City Planner, presented this item to Mayor Jasso and Council. She stated that this case involves a sign that was already erected and that the message board sign was inadvertently permitted with two free-standing signs for the applicant. She explained that due to the fact that the sign has a message board with illuminated intermittent lights, the approval of the City Council, as recommended by P & Z, is required pursuant to City Code 11-1-2 Section H111. She then cited part of the code which referenced this issue. She stated that P & Z is recommending approval of this case and there have been no complaints about the sign.

Mayor Jasso asked if the applicant or agent would like to make a statement. Ms. Gentile stated that they were not available to attend.

Mayor Jasso asked for any affected party's comments. There were none.

Mayor Jasso asked if any other parties would like to comment.

Larry Caldwell, 711 N. Zinc, stated that Ms. Gentile said this sign was inadvertently allowed. He went on to say that this is due to P & Z not being on top of things.

Ms. Gentile asked for permission to address this comment. She stated that sign permits are administratively approved and does not go before P & Z. However, the part that was inadvertent was the fact that the sign had a message board and once that was realized, it did go in front of P & Z. It was reviewed by P & Z, and is now going before Council based on their recommendation for approval based on City Code.

Edward Khanbabian, 1721 E. Pine St., commented that as long as they follow the rules, he has no objection to approval of this request.

Councilor Cruz moved to approve the request for a Special Use Permit for a Message Board Sign for Quality Inn at 4600 E. Pine Street, as presented. Councilor Milo seconded the motion; motion carried unanimously by a roll call vote.

ROLL CALL VOTE

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

Mayor Jasso stated the decision announced by the authorities will be effective after the written order is executed and filed with both the Municipal and County Clerk. Any action of the City Council in approving conditionally, approving or denying this application may be appealed to the District Court within 15 calendar days.

14. Quasi-Judicial Public Hearing to Consider the Request for a Variance to place an RV onsite at the ASARCO Property for Security Purposes

Mayor Jasso called the public hearing to consider the request for a variance to place an RV onsite at the ASARCO property for security purposes. He confirmed that Council had no conflicts of interest; that the public notices were properly posted; and swore in all parties who would be giving testimony.

Ms. Gina Gentile, City Planner, presented this case to Mayor and Council. She stated that the case involves a variance request for use of an RV at the ASARCO site for 24 hours a day security. The subject property has been subject to vandalism, theft, and other crimes in the past and this measure is to help keep 24 hour security onsite. She stated that the RV will be located on the north side of the present office building, and that the applicant stated in his application that there are also plans for a mobile home to be placed on the site. Ms. Gentile stated that the P & Z recommended approval of this case.

Mr. McInturff pointed out the area on the map and noted that the owner's name has changed to Geo Southwest. He explained that the property expands over City and ETZ jurisdiction. The ETZ does allow for onsite security, but the City does not. Therefore this request is required for the security RV to be placed onsite.

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

John Strand, 1001 Dona Ana Rd. SE, clarified that across the road, ETZ would allow for a mobile home, therefore when it is decided that a mobile home will be placed, it will be in the ETZ area and not require approval by the City. He would like Council to approve this request due to the fact that in the past there have been issues with crime, theft, and vandalism in that area. He stated that as a result the mill has been damaged beyond productivity.

Mr. McInturff asked Mr. Strand how many jobs the mill would provide to the community. He stated that it depends on the feed of the mill, but it would be about 17-28 jobs.

Mr. Strand stated that the property was recently purchased by Geo Southwest and they are looking at starting up the mill.

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

Edward Khanbajian, 1721 E. Pine St., asked who would be paying for all this. Mr. Strand answered that Geo Southwest would be funding any activity at the mill.

Larry Caldwell, 711 N. Zinc St., asked Mr. Strand what interest he has in Geo Southwest. Mr. Strand stated that he has a small percentage and is the named agent at this time.

Mayor Jasso closed the public comment and asked Council if they were prepared to make a motion.

Councilor Cruz moved to approve the request for a Variance to place and RV onsite at the ASARCO Property for Security Purposes. Councilor Milo seconded the motion; motion carried unanimously by roll call vote.

ROLL CALL VOTE

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

Mayor Jasso stated the decision announced by the authorities will be effective after the written order is executed and filed with both the Municipal and County Clerk. Any action of the City Council in approving, conditionally approving or denying this application may be appealed to the District Court within 15 calendar days.

15. Bids:

a. Bid #14-16 External Auditor Services

Mr. Valentine presented the recommendation to Mayor and Council. He stated that the City of Deming received bids from three auditing firms: Harshwal & Company LLP, Accounting & Consulting Group, LLP, and Integrity Accounting & Consulting LLC. He went on to say that the bids were opened and witnessed by Lloyd Valentine and Laura Holguin on April 28, 2014 at 4:00 p.m. He stated that the committee of three: Lloyd Valentine, Laura Holguin, and Patty Ciccotelli

ranked the bids based upon a combination of technical expertise, approach, work requirements, available resources, and their strengths and weaknesses.

Mr. Valentine stated that staff recommends the approval of selecting Accounting & Consulting Group, LLP as City of Deming's External Auditor and to allow the City's Finance Department to engage into a three-year contract provided that the cost of audit services does not exceed \$60,000 in any single year.

Mr. Valentine stated that the City advertised a request for qualifications, and that does not necessarily mean that the lowest bidder must be chosen. He stated that other criteria could be considered in awarding the bid.

Councilor Cruz asked Mr. Valentine for clarification in the portion of the recommendation where it stated that the service cannot exceed \$60,000. Mr. Valentine stated that according to the procurement rules, under \$60,000 is still considered a small purchase and would not require going out for bid, again.

Mayor Pro Tem Franklin moved to approve Bid #14-16 External Auditor Services to Accounting & Consulting Group, LLP in the amount of \$49,775, as presented; and to allow the City's Finance Department to engage into a three-year contract provided that the cost of the audit services does not exceed \$60,000 in any single year, as presented. A friendly amendment was made by Councilor Sanchez to include the phrase "plus gross receipts tax" to the amount. Councilor Cruz seconded the motion and the friendly amendment. Motion carried unanimously.

16. Closed Session to Discuss Potential Litigation and Purchase of Real Estate pursuant to NMSA 1978, Section 10-15-1 (H)(7), (H)(8), of the Open Meetings Act.

Mayor Jasso entertained a motion to go into closed session.

Councilor Sanchez moved to go into close session. Councilor Milo seconded the motion. Councilor Cruz commented on the motion to go into closed session and asked if more influence could be given in the motion, and allow for more specificity. A discussion was entertained amongst Council and Staff regarding this issue.

Motion to go into closed session carried unanimously by a roll call vote.

ROLL CALL VOTE

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

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

Councilor Sanchez moved to go back into open session. Councilor Cruz seconded the motion; motion carried unanimously by a roll call vote.

ROLL CALL VOTE

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

Mayor Jasso stated for the record that only those items mentioned in the motion to go into closed session were discussed and that nothing was moved upon in the closed session.

Mayor Pro Tem Franklin moved to approve the authorization for staff to finalize the purchase of property of east Pine Street property, Lots 16 and 17, in the amount of \$55,000; and to authorize staff to review deed restrictions to be reviewed by Council and also authorize Mayor to execute and close the purchase. Councilor Sanchez seconded the motion; motion carried unanimously.

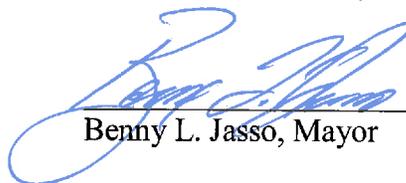
Mayor Pro Tem Franklin moved to authorize staff to finalize the purchase of property at 818 W. Pine Street in the amount of \$70,000 and authorize the Mayor to execute and close on the purchase. Councilor Sanchez seconded the motion; motion carried unanimously.

17. Adjourn Meeting

With no further business to discuss, Councilor Sanchez motioned to adjourn the meeting. Councilor Milo seconded the motion; motion carried unanimously. Meeting adjourned at 9:29 p.m.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Richard F. McInturff, Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-16**

**RESOLUTION OF THE GOVERNING BODY, AUTHORIZING THE SUBSCRIPTION OF WATER
DELIVERED BY THE SOUTHWEST NEW MEXICO WATER SUPPLY PROJECT ELIGIBLE UNDER
THE ARIZONA WATER SETTLEMENT ACT AND PROPOSED TO THE INTERSTATE STREAM
COMMISSION**

WHEREAS, the Arizona Water Settlement Act (AWSA) was passed into law in 2004 and provides \$128 million in funding for locally proposed water utilization and water related projects in the four County region of Luna, Hidalgo, Grant, and Catron Counties; and

WHEREAS, the AWSA provides for 14,000 acre feet of new water to the region and is the product of an exchange of water authorized by the Colorado River Basin Project Act of 1968 which produced the Central Arizona Project; and

WHEREAS, the City of Deming became involved as the fiscal agent for water planning activities from 2004 until 2007 when the NM Stakeholders Group was established by the Interstate Stream Commission (ISC) to implement a process that led to proposals for the utilization of water and/or funds; and

WHEREAS, Deming has proposed three tier two projects for consideration to the Interstate Stream Commission which include a municipal conservation project, an effluent reuse project, and a Gila River diversion proposal known as the Southwest New Mexico Regional Water Supply Project; and

WHEREAS, the Southwest New Mexico Regional Water Supply Project addresses the 10,000 acre feet of water allocated to the Gila River (the other 4,000 acre feet is allocated to the San Francisco River) and would directly serve to reduce the current water deficit in the region of an estimated 30,000 acre feet; and

WHEREAS, the City of Deming recognizes that water conservation needs to play an equal role in bringing regional water supply and demand into equilibrium; and

WHEREAS, a wide range of costs for the diversion, reservoir, and pipeline have been estimated and vary depending on location and scope; and

WHEREAS, the goals of the diversion project are not only to provide additional water supply to the population and economy of the region but to enhance the ecology of the Gila River and to mitigate conditions that threaten the survival of certain endangered species; and

WHEREAS, the National Environmental Protection Act (NEPA) process that is required will insure environmental compliance and considerations; and

WHEREAS, under the AWSA, the Interstate Stream Commission must notify the United States Secretary of the Interior by the end of the year of its intent to pursue one or more diversions to utilize the 14,000 acre feet made available in the act; and

WHEREAS, the City of Deming is fiscal agent and a contributor to a Diversion Project Reservation Fund that will be used to develop and construct a project and demonstrates to the ISC a degree of the region's financial support; and

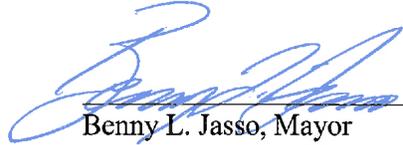
WHEREAS, subscription of the water is an important consideration for a diversion project by the Interstate Stream Commission during its deliberations.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DEMING;
The City of Deming will commit to subscribe to 2,500 acre feet of water annually from the Southwest New Mexico Water Supply Project and the terms of the subscription agreement will be subject to compliance with New Mexico state law.

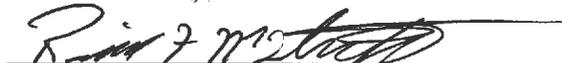
PASSED, ADOPTED, AND APPROVED this 12th day of May, 2014.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Richard F. McInturff, Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-17**

WHEREAS, the Marshall Memorial Library provides highly relevant services and engages directly with the residents of the community; and

WHEREAS, community libraries have evolved and no longer just provide general development and educational opportunities but now are relied upon to provide access to technology and the internet; and

WHEREAS, libraries are also providing a venue for instructional and demonstration programs and activities; and

WHEREAS, the City of Deming has invested in land adjacent to the existing library facility; and

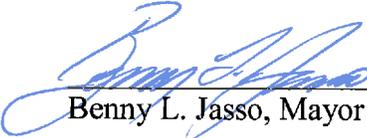
WHEREAS, the Marshall Memorial Library in order to meet present and future needs of the community it has been identified that a building expansion is appropriate.

NOW THEREFORE BE IT RESOLVED that the Deming City Council authorizes a budgeted phased design approach and instructs staff to pursue development of a funding strategy to support the construction phase of the project

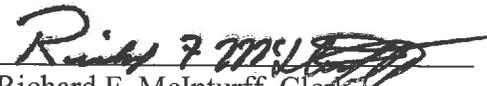
PASSED, APPROVED AND ADOPTED THIS 12th day of May, 2014.

CITY OF DEMING, NEW MEXICO




Benny L. Jasso, Mayor

ATTEST:


Richard F. McInturff, Clerk

ORDINANCE NO. 1247

AN ORDINANCE AMENDING TITLE 1 OF THE DEMING CITY CODE, NEW MEXICO

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

1. Title 1, Chapter 15, of the Deming City Code is hereby amended by deleting Chapter 15"Local Economic Development Plan" in its entirety and replacing it with the following:

"CHAPTER 15

LOCAL ECONOMIC DEVELOPMENT PLAN

SECTION:

- | | |
|----------|--|
| 1-15-1: | Short Title |
| 1-15-2; | Authority |
| 1-15-3: | Purpose |
| 1-15-4: | Definitions |
| 1-15-5: | Earlier Actions Confirmed |
| 1-14-6: | Economic Development Plan |
| 1-15-7: | City Authority |
| 1-15-8: | Conservation of City Resources |
| 1-15-9: | Restrictions on Public Expenditures or Pledges of Credit |
| 1-15-10: | Arts and Cultural Districts: Restrictions on Public Expenditures |
| 1-15-11: | Competitive and Non-Competitive Proposals |
| 1-15-12: | Project Evaluation |
| 1-15-13: | Public Inspection of Proposal |
| 1-15-14: | Project Participation Agreement; Duties and Requirements |
| 1-15-15: | Project Revenues; Special Fund; Annual Audit |
| 1-15-16: | Plan and Project Termination |
| 1-15-17: | Authority of City Officers |
-
- | | |
|---------|---|
| 1-15-1: | SHORT TITLE: This chapter may be cited as the <i>CITY OF DEMING ECONOMIC DEVELOPMENT PLAN ORDINANCE</i> (the "economic development plan"). |
| 1-15-2: | AUTHORITY: The City of Deming Economic Development Plan ordinance is enacted pursuant to the authority conferred upon municipalities and counties to allow public support of economic development projects |

through the Local Economic Development Act, Section 5-10-1 through Section 5-10-13 NMSA 1978 (the "act").

1-15-3: **PURPOSE:** The purpose of the economic development plan ordinance is to allow, promote, foster and enhance the establishment within the city or outside the city, and pursuant to a joint powers agreement with one or more other municipalities or counties as authorized by the "act", if desirable and necessary, of any economic development projects, including investments in arts and cultural districts created pursuant to the Arts and Cultural District Act (Sections 15-5A-1 to 15-5A-7 NMSA 1978) that may be qualified under the said "act", and be approved by the city, and its joint powers partner or partners, if applicable. Through this economic development plan ordinance the city intends to create new investment and job opportunities by providing land, buildings, infrastructure for facilities to support new or expanding businesses or other resources, as appropriate. The city will employ adequate safeguards to protect against the unauthorized use of public monies, property and other resources.

1-15-4: **DEFINITIONS:** The definition of terms used in this economic development plan ordinance shall be as set forth in the "Local Economic Development Act" Section 5-10-3 NMSA 1978.

1-15-5: **EARLIER ACTIONS CONFIRMED:** All action heretofore taken not consistent with the provisions of this chapter, by the city and officers of the city, directed toward the adoption of the economic development plan described below is hereby ratified, approved and confirmed.

1-15-6: **ECONOMIC DEVELOPMENT PLAN:** Pursuant to section 5-10-6 NMSA 1978, there is hereby adopted the city's Comprehensive Plan, July 2010, which Plan contains an economic development component, which component may be amended from time to time.

1-15-7: **CITY AUTHORITY:** The city shall have the authority pursuant to this chapter and the economic development plan to exercise the full powers permitted under the act, except as specifically provided in this chapter. It is the intent of the city to evaluate the form and extent of aid provided to qualifying entities as defined in the act, the security to be provided to the city and other details of each economic development project on a case by case basis dependent upon the particular circumstances of each proposed project.

1-15-8: **CONSERVATION OF CITY RESOURCES:** In order to conserve the city's financial resources, the city shall attempt, to the extent reasonable

and practicable, to provide aid to qualifying entities in the form of the use of land, buildings, infrastructure already owned by the city or other resources available to the city, in preference to aid consisting of expenditures for the purchase of land and the construction and installation of infrastructure, or other similar expenditures.

1-15-9: RESTRICTIONS ON PUBLIC EXPENDITURES AND PLEDGES OF CREDIT:

- A. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by the city for economic development projects pursuant to the provisions of this chapter and the provisions of the act shall not exceed ten percent (10%) of the annual general fund expenditures of the city in that fiscal year. These limits shall not apply to:
1. The value of any land or building contributed to any project pursuant to a project participation agreement.
 2. Revenue generated through the imposition of the municipal infrastructure gross receipts tax pursuant to the Municipal Local Option Gross receipts Taxes Act (Chapter 7, Article 19D NMSA 1978) for furthering or implementing economic development plans and projects as defined in the act or projects as defined in the Statewide Economic development Finance Act (Chapter 6, Article 25 NMSA 1978); provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent (10%) of the revenue collected shall be used for promotion and administration of professional services contracts related to the implementation of any such economic development plan adopted by the city council.
 3. The proceeds of a revenue bond issue to which the municipal infrastructure gross receipts tax revenue is pledged.
 4. Funds donated by private entities to be used for defraying the cost of a project.
- B. Where the city generates revenue for economic development projects to which the limits of Section 1-15-9 A. of this chapter do not apply shall create an economic development fund into which such revenues shall be deposited. The economic development fund and income from the fund shall be deposited as provided by law. Monies in the economic development fund may be expended only as provided in the act or in the statewide Economic Development Finance Act.

1-15-10: ARTS AND CULTURAL DISTRICTS: RESTRICTIONS ON EXPENDITURES: Where the city intends to expend monies from an economic development fund for arts and cultural district purposes, the provisions of Section 5-10-4 D through section 5-10-4 G, NMSA 1978 shall apply.

1-15-11: **COMPETITIVE AND NON-COMPETITIVE PROPOSALS:** The city may require the qualifying entities to submit competitive proposals for the economic development projects, or may, to the extent consistent with law, consider and approve project applications without a competitive proposal process. Whether or not the city solicits proposals for projects, the city in its sole discretion, shall have the right to reject any proposal.

1-15-12: **PROJECT EVALUATION:** The city will evaluate proposed projects on the basis of the provisions of the economic development plan, the financial and management capability and stability of the qualifying entity, the demonstrated commitment of the qualifying entity to the city, the benefit of the project to the city and any other information the city believes necessary for a full review of the project. The city may negotiate with a qualifying entity on the type or amount of assistance to be provided or on the scope of the project.

1-15-13: **PUBLIC INSPECTION OF PROPOSAL:** Where the city proposes to approve an economic development project application, it shall make the application and all relevant supporting documentation available for public inspection except to the extent that such disclosure would impair the qualifying entity's legitimate interest protecting trade secrets or other confidential information. Non-confidential portions of the application shall be available for public inspection at the office of the city clerk for at least the period from the date of publication of notice of intent to adopt an ordinance approving the project through the date of such ordinance.

1-15-14: **PROJECT PARTICIPATION AGREEMENT; DUTIES AND REQUIREMENTS:**

- A. The city shall enter into a project participation agreement with the successful qualifying entity and shall require a substantive contribution from the qualifying entity for each economic development project. Public support provided for an economic development project shall be in exchange for a substantive contribution from the qualifying entity. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion of the economy. The qualifying entity shall provide security to the city and to any other governmental entity providing public support for an economic development project. The security shall reflect the amount of public support provided to the qualifying entity.
- B. At a minimum, the project participation agreement shall set out:
 - 1. The contributions to be made by each party to the participation agreement.

2. The security provided to the city and to each other governmental entity that provides public support for the economic development project by the qualifying entity in the form of a lien, mortgage or other indenture and the pledge of the qualifying business's financial or material participation and cooperation to guarantee the qualifying entity's performance pursuant to the project participation agreement.
3. A schedule for project development and completion, including measurable goals and time limits for those goals.
4. Provisions for performance review and actions to be taken upon a determination that project performance is unsatisfactory.

1-15-15: **PROJECT REVENUES; SPECIAL FUND; ANNUAL AUDIT:**

- A. City revenues dedicated or pledged for funding or financing of economic development projects shall be deposited in a separate account. Separate accounts shall be established for each separate project. Money in the special account shall be expended only for economic development project purposes, which may include the payment of necessary professional service contract costs.
- B. The city shall provide for an annual independent audit in accordance with the Audit Act (Sections 12-61- through 12-6-14 NMSA 1978) of each special fund and project account. The audit shall be submitted to the city. The audit is a public record.

1-15-16: **PLAN AND PROJECT TERMINATION**

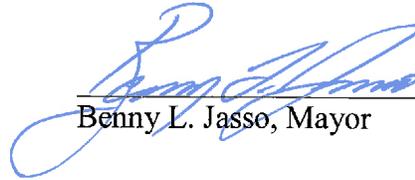
- A. At any time after approval of an economic development plan, the city council may enact an ordinance terminating the economic development plan and dissolving or terminating any or all of the projects. An ordinance terminating an economic development plan shall not be effective unless the ordinance provides for satisfying existing contracts and the rights of the parties arising from those contracts.
- B. Any unexpended and unencumbered balances remaining in any project fund or account upon termination of the plan and termination or dissolution of a project may be transferred to a general fund of the city.

1-15-17: **AUTHORITY OF CITY OFFICERS:** The officers of the city are hereby authorized and directed to take all action necessary and/or appropriate to effect the provisions of this chapter.”

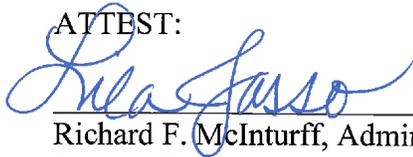
PASSED, ADOPTED, AND APPROVED, this 12th day of May, 2014.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:



Richard F. McInturff, Administrator/Clerk
(not available) Signed by Lila Jasso, Asst.
Deputy Clerk

ORDINANCE NO. 1248

AN ORDINANCE AMENDING TITLE 12 OF THE DEMING CITY CODE, NEW MEXICO

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

1. Title 12, Chapter 3, Section 12-3-1 of the Deming City Code is hereby amended by adding thereto the following district:

“12-3-1: DIVISION INTO DISTRICTS

G Government District”

2. Title 12, Chapter 4, of the Deming City Code is hereby amended by adding thereto Article P Government District:

“CHAPTER 4

USE DISTRICT REGULATIONS

ARTICLE P. G GOVERNMENT DISTRICT

SECTION:

- 12-4P-1: District Established
- 12-4P-2: Application
- 12-4P-3: Use Regulations
- 12-4P-4: Airport Property Exempted
- 12-4p-5: Use Restrictions

12-4P-1: **DISTRICT ESTABLISHED:** There is hereby established a G Government District within the City.

12-4P-2: **APPLICATION:** The regulations set forth in this article, or set forth elsewhere in this title when referred to in this article, are the G Government District regulations.

12-4P-3: **USE REGULATIONS:** Except as otherwise specified in this article a building or premises may be used for any purpose not in conflict with any

provision of this title 12; specifically as follows:

- A. Any government use, city, county, state or federal governments, or any government sponsored use that serves the general public is permitted as a matter of right.
- B. Where a non-governmental use is proposed in any Government District and such non-governmental use is subject to a lease arrangement or other agreement with the city or other government entity, such use shall not be permitted and no lease or other agreement ratified until such time as a public hearing is held by the city council to consider the establishment of such non-governmental use. Such public hearing shall comply with the following provisions:
 - 1. All property owners within two hundred feet (200') of the subject property shall be notified by regular first class mail of the date, time and location of such public hearing.
 - 2. Notice of the public hearing shall be given a minimum of fifteen (15) days prior to the date set for the public hearing.
- C. City Council may approve the establishment of the non-governmental use or it may deny the establishment of the proposed non-governmental use. Where city council approves the establishment of the non-governmental use it may impose any conditions it deems appropriate, including, but not limited to, setbacks from property lines, height restrictions, building coverage, number of parking spaces required, a security deposit to guarantee compliance with any conditions imposed, and lighting requirements.

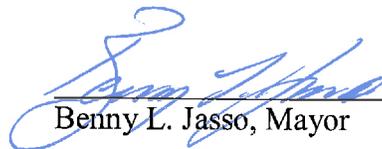
12-4P-4: **AIRPORT PROPERTY EXEMPTED:** The Deming Airport lands and buildings are hereby exempted from compliance with any of the provisions of this Article provided that any use proposed for the Deming Airport lands and buildings is related to the aviation industry.

12-4P-5: **USE RESTRICTIONS:** All uses listed in section 12-4M-2 of this title are prohibited in any G Government District.”

PASSED, ADOPTED, AND APPROVED, this 12th day of May, 2014.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:



Richard F. McInturff, Administrator/Clerk
(not available) Signed by Lila Jasso, Asst.
Deputy Clerk