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POPULATION 14,000

# CITY COUNCIL MEETING

**July 9, 2012**

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 - City Council Workshop and Regular Meeting 06/11/12
  - B. Minutes - Special City Council Meeting 6/25/12
  - C. Minutes - Planning and Zoning Commission Meeting (no meeting held)
  - D. Minutes - Airport Commission Meeting (no meeting held)
  - E. Minutes - Tourism Development Committee Meeting 06/20/12
  - F. Minutes - Marshall Memorial Library Board Meeting 06/26/12
  - G. Minutes - Parks Commission Special Meeting 06/12/12
2. Public Forum
3. Presentation of Certificate of Appreciation in Honor of Bob Orosco's Many Years of Service on the City of Deming's Parks Commission
4. Presentation Regarding a Solar Energy Project by Rick Sherman (No Action)
5. Appointment of Robert Gomez Jr. to the Parks Commission
6. Appointment of Kevin Zachek to the City Labor-Management Relations Board
7. Resolution Endorsing, Supporting and Authorizing Luna County to Apply for and Enter the New Mexico Economic Development Department Certified Community Initiative Program

8. Memorandum of Understanding Between the County of Luna and the City of Deming and the Deming Luna County Economic Development, Inc. Providing for the Implementation of the Certified Communities Initiative Program
9. Public Hearing: Ordinance Amending Title 12, Chapter 7 of the Municipal Code of The City of Deming Regarding Zoning Variances
10. Public Hearing Ordinance Amending Title 8, Chapter 4, of the Municipal Code of the City of Deming Regarding the Mountain View Cemetery
11. Public Hearing Ordinance Amending Title 1, Chapter 2, of the Municipal Code of the City of Deming Regarding the Library Board of Trustees
12. Ratification of AR DM 12-33 an Administrative Regulation Governing Official Personnel Folders (OPF)
13. Out of State Travel for Richard McInturff and Aaron Sera October 5th-10th, 2012 to attend the ICMA's Annual Conference in Phoenix, Arizona
14. Out of State Travel for Aaron Sera and Richard McInturff to attend a Project Re-Scoping Meeting for the Peru Mill EDA Grant in Austin Texas between August 6th and August 17th
15. Reschedule October 8th Regular City Council Meeting
16. Bids
  - a. Bid #12-17 3000 PSI Redi-Mix Concrete
  - b. Bid #12-18 Type II Base Course
  - c. Bid #12-19 Washed 3/8 Inch Chip Rock
  - d. Bid #12-20 Washed 1/2 Inch Chip Rock
  - e. Bid #12-21 Used 9 Wheel Pneumatic Roller
  - f. Bid #12-22 Sewer Main Utility Bore and Casing
17. Closed Session to Discuss the Purchase and Sale of Agricultural/Rural Properties Pursuant to NMSA 1978, Sections 10-15-1 (H)(8), of the Open Meetings Act.
18. Adjourn Meeting

*The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., August 13, 2012.*

# CITY COUNCIL WORKSHOP MINUTES July 9, 2012

**Council Present:**

Andres Z. Silva, Mayor  
Shattuck, Councilor

Linda Franklin, Mayor Pro Tem William

**Council Absent:**

David Sanchez, Councilor

Joe "Butter" Milo, Councilor

**Staff Present:**

Richard McInturff, City Administrator  
Lawrence Brookey, Public Works Director  
Michael Carrillo, Chief of Police  
Wesley Hooper, Special Projects Coordinator

Aaron Sera, Assistant City Administrator  
Edgar Davalos, Fire Chief  
Rick Kocab, Assistant Treasurer

**Recording Secretary:** Berenda McWright, Assistant Deputy Clerk

Mayor Andres Z. Silva and the City Council of Deming, New Mexico held a workshop on July 9, 2012 at 4:00 p.m. to discuss items of the City Council Agenda in preparation for the regularly scheduled meeting to be held at 6:00 p.m. the same day. The following items of the agenda were discussed as follows:

- 1. Consent Agenda:** Mr. McInturff recommended the minutes of the Tourism Development Committee meeting and the minutes of the Parks Commission meeting be pulled from the Consent Agenda and considered separately because the action items from those meetings were not listed on the Agenda.
- 2. Public Forum:** No discussion took place regarding the public forum.
- 3. Presentation of Certificate of Appreciation in Honor of Bob Orosco's Many Years of Service on the City of Deming's Parks Commission:** It was determined that Mr. Orosco's family members would be present for the presentation of the Certificate of Appreciation, which would be presented by Mayor Silva.
- 4. Presentation Regarding a Solar Energy Project by Rick Sherman (No Action):** Mr. McInturff stated the presentation by Rick Sherman was informational only and no action would be required.

5. **Appointment of Robert Gomez Jr. to the Parks Commission:** Mayor Silva stated that he will be presenting the appointment of Robert Gomez Jr. to the Parks Commission.
6. **Appointment of Kevin Zachek to the City Labor-Management Relations Board:** Mayor Silva stated that he will be presenting the appointment of Kevin Zachek to the City Labor-Management Relations Board.
7. **Resolution Endorsing, Supporting and Authorizing Luna County to Apply for and Enter the New Mexico Economic Development Department Certified Community Initiative Program:** Mr. McInturff explained the County will apply for the Certified Community Initiative Program and the Resolution and the Memorandum of Understanding are to ensure that the County and City are working together in regards to the program.
8. **Memorandum of Understanding Between the County of Luna and the City of Deming and the Deming Luna County Economic Development, Inc. Providing for the Implementation of the Certified Communities Initiative Program:** See above.
9. **Public Hearing: Ordinance Amending Title 12, Chapter 7 of the Municipal Code of The City of Deming Regarding Zoning Variances:** Mr. Sera stated the ordinance will allow for an administrative variance to be granted in regards to certain setback requirements. Mr. McInturff pointed out a typographical error in #2 of the ordinance in which "(100) feet" needed to be spelled out "one hundred (100) feet". Ms. McWright offered to make the corrections before the meeting. Mr. McInturff also reported that line item #2 and #4 concerning due process language had been added since the ordinance was tabled at the last meeting.
10. **Public Hearing Ordinance Amending Title 8, Chapter 4, of the Municipal Code of the City of Deming Regarding the Mountain View Cemetery:** Mr. Sera presented the brochure regarding the cemetery which is referenced in the ordinance. He reported some of the changes which included: allowing city staff to set the hours of the cemetery; incorporating the rules and regulations brochure by reference; the availability of price security; the opening and closing fees being paid at the time of need; and limiting the number of interments to not more than one interment and one cremains in a 10X5 lot, or two cremations in any lot. Mayor Pro Tem Franklin disagreed with limiting the number of cremains to two. Discussion ensued regarding the issue of limiting the number of burials on a plot and who should be authorized to determine who and how many can be buried in an occupied grave. Mr. Sera stated the ordinance would allow for an administrative variance to be granted when necessary. Mr. McInturff requested a change in the format of certain language in the ordinance. Ms. McWright agreed to make the necessary change.

11. **Public Hearing Ordinance Amending Title 1, Chapter 2, of the Municipal Code of the City of Deming Regarding the Library Board of Trustees:** Mr. Sera explained the ordinance was amended by allowing the County to have an extra appointee by eliminating the Higher Education Board and setting the meeting dates to even number months.
12. **Ratification of AR DM 12-33 an Administrative Regulation Governing Official Personnel Folders (OPF):** Mr. McInturff stated the regulation formalizes the process and parameters of the personnel files and establishes that the official files will be kept by the Human Resources Director Vickie Engle.
13. **Out of State Travel for Richard McInturff and Aaron Sera October 5th-10th, 2012 to attend the ICMA's Annual Conference in Phoenix, Arizona:** Mr. McInturff stated the actual ICMA Conference begins on October 7th, however there are university workshops offered on the 6th. The workshops are important for obtaining continuing education credits for certified manager program. Mr. Sera stated that he attended the conference last year and it was one of the most educational conferences he has attended.
14. **Out of State Travel for Aaron Sera and Richard McInturff to attend a Project Re-Scoping Meeting for the Peru Mill EDA Grant in Austin Texas between August 6th and August 17th:** Mr. Sera explained the City received an economic development grant to improve Arrowhead Drive and part of the project scope included creating a diversion channel to eliminate a flood plain in the industrial park. Due to the cost exceeding funding availability, the City would not be able to continue with the project and a meeting has been requested to discuss re-scoping the project. Mr. McInturff stated that an exact date had not been set for the meeting but it is expected to occur sometime between the 6th and 17th of August.
15. **Reschedule October 8th Regular City Council Meeting:** Mr. McInturff stated if the ICMA out of state travel request was approved, he and Mr. Sera would be absent for the regular October 8th City Council meeting. He recommended Council have the regular meeting and those items that need presentation by the administrators be addressed at a special meeting either, on or after, October 22nd.
16. **Bids:** Mr. Hooper will be presenting bids (a - e) and Mr. Brookey will present bid f.
  - a. **Bid #12-17 3000 PSI Redi-Mix Concrete:**
  - b. **Bid #12-18 Type II Base Course**
  - c. **Bid #12-19 Washed 3/8 Inch Chip Rock**
  - d. **Bid #12-20 Washed 1/2 Inch Chip Rock**
  - e. **Bid #12-21 Used 9 Wheel Pneumatic Roller**
  - f. **Bid #12-22 Sewer Main Utility Bore and Casing**
17. **Closed Session to Discuss the Purchase and Sale of Agricultural/Rural Properties Pursuant to NMSA 1978, Sections 10-15-1 (H)(8), of the Open Meetings Act:** Mr. McInturff stated there are two items for discussion in the Closed Session.

**18. Adjourn Meeting:** The workshop was adjourned at 4:45p.m.

*The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., August 13, 2012.*

CITY OF DEMING, NEW MEXICO



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Andres Z. Silva, Mayor

ATTEST:



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Richard F. McInturff, Deputy Clerk

# CITY COUNCIL MEETING MINUTES

July 9, 2012

## **Council Present**

Linda Franklin, Mayor Pro Tem  
Joe "Butter" Milo, Councilor

**Andres Z. Silva, Mayor**

William Shattuck, Councilor  
David Sanchez, Councilor

## **Staff Present**

Richard F. McInturff, City Administrator  
Aaron Sera, Assistant City Administrator  
Lawrence Brookey, Public Works Director  
Wesley Hooper, Special Projects Coordinator

Jim Foy, City Attorney  
Michael Carrillo, Police Chief  
Edgar Davalos, Fire Chief

**Recording Secretary:** Berenda McWright, Assistant Deputy Clerk

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

## **1. Consent Agenda:**

- A. Minutes - City Council Workshop and Regular Meeting 06/11/12**
- B. Minutes - Special City Council Meeting 6/25/12**
- C. Minutes - Planning and Zoning Commission Meeting (no meeting held)**
- D. Minutes - Airport Commission Meeting (no meeting held)**
- E. Minutes - Tourism Development Committee Meeting 06/20/12**
- F. Minutes - Marshall Memorial Library Board Meeting 06/26/12**
- G. Minutes - Parks Commission Special Meeting 06/12/12**

City Administrator Richard McInturff recommended the minutes of the Tourism Development Committee meeting and the minutes of the Parks Commission meeting be pulled from the Consent Agenda and considered separately because the action items from those meetings were not listed in the Consent Agenda. Councilor Shattuck motioned to approve the Consent Agenda without the Tourism Development Committee Meeting Minutes and the Parks Commission Special Meeting Minutes. The motion was seconded by Councilor Milo and carried unanimously.

Councilor Shattuck stated the Tourism Development Committee Minutes included recommendations for approval of the following funding allocations; \$6,000 for the Gem & Mineral Society; \$1,000 for the Old Timers; \$1,200 for the Smokin Oldies; \$6,000 for the Historical Society; and \$5,000 for the Great American Duck Races. Councilor Shattuck motioned to approve the Tourism Development Committee Minutes including the funding

allocations as presented. The motion was seconded by Mayor Pro Tem Franklin and carried unanimously.

Councilor Shattuck motioned to approve the Park Commission Minutes which included approval of allowing one reservation per league and two separate reservations for tournaments by one party or entity for Hooten Park. The motion was seconded by Mayor Pro Tem Franklin and carried unanimously.

2. **Public Forum:** Mayor Silva opened the public forum and there were no members of the audience wishing to speak.
3. **Presentation of Certificate of Appreciation in Honor of Bob Orosco's Many Years of Service on the City of Deming's Parks Commission:** Mayor Silva stated it was distinct honor to present the Certificate of Appreciation in honor of Bob Orosco's commitment to service in the community and the City. Mr. Silva read the certificate and presented it to Mr. Orosco's family.
4. **Presentation Regarding a Solar Energy Project by Rick Sherman (No Action):** Attorney Rick Sherman representing Fire Water and Fuel, LLC gave a brief presentation regarding their plan to select one or two cities to become the solar energy capitals of the world by installing solar on every house and business in the community at no cost to the owners. He stated the company plans to raise about \$15 million dollars through an IPO and tax credits to obtain a building to potentially manufacture solar and alternative energy sources using cutting edge technology in order to compete with China.
5. **Appointment of Robert Gomez Jr. to the Parks Commission:** Mayor Silva recommended approval of appointment of Robert Gomez Jr. to the Parks Commission. Councilor Milo motioned to approve the recommendation by the Mayor to appoint Robert Gomez Jr. to the Parks Commission. The motion was seconded by Councilor Sanchez and carried unanimously.
6. **Appointment of Kevin Zachek to the City Labor-Management Relations Board:** Mayor Silva recommended approval of the appointment of Kevin Zachek to the City Labor-Management Relations Board. Mr. McInturff explained that Judge Van Gundy was appointed by Council as the management representative and Ed Apodaca was appointed by the fire and police labor unions. Mr. Van Gundy and Mr. Apodaca were not able to come to an agreement on a third appointee, so according to the City ordinance, the Mayor shall appoint the third member. Councilor Milo motioned to approve the Mayor's recommendation of the appointment of Kevin Zachek to the City Labor-Management Relations Board. The motion was seconded by Councilor Sanchez and carried unanimously.
7. **Resolution Endorsing, Supporting and Authorizing Luna County to Apply for and Enter the New Mexico Economic Development Department Certified Community Initiative Program:** Mr. McInturff recommended approval of the Resolution regarding the Certified Community Initiative Program which is a designation from the New Mexico

Economic Development Department. He stated the County will be the lead agency. Councilor Shattuck motioned to adopt the Resolution Endorsing, Supporting and Authorizing Luna County to Apply for an Enter the New Mexico Economic Development Department Certified Community Initiative Program. The motion was seconded by Councilor Milo and carried unanimously.

8. **Memorandum of Understanding Between the County of Luna and the City of Deming and the Deming Luna County Economic Development, Inc. Providing for the Implementation of the Certified Communities Initiative Program:** Mr. McInturff recommended approval of the Memorandum of Understanding which establishes the guidelines in which Luna County, the City of Deming and the Deming Luna County Economic Development, Inc. will work together. Councilor Shattuck motioned to approve the Memorandum of Understanding between the County of Luna and the City of Deming and the Deming Luna County Economic Development, Inc. providing for the implementation of the Certified Communities Initiative Program. The motion was seconded by Councilor Sanchez and carried unanimously.
9. **Public Hearing: Ordinance Amending Title 12, Chapter 7 of the Municipal Code of The City of Deming Regarding Zoning Variances:** Assistant City Administrator Aaron Sera recommended approval of the ordinance which allows for an administrative variance to be granted in regards to certain setback requirements. Mr. Sera stated due process language had been added since the ordinance was tabled at the last meeting. Mayor Silva opened the public hearing and there was no one wishing to speak. Mayor Pro Tem Franklin motioned to approve the Ordinance Amending Title 12, Chapter 7 of the Municipal Code of the City of Deming Regarding Zoning Variances. The motion was seconded by Councilor Shattuck and carried unanimously.
10. **Public Hearing Ordinance Amending Title 8, Chapter 4, of the Municipal Code of the City of Deming Regarding the Mountain View Cemetery:** Mr. McInturff recommended tabling the ordinance. Councilor Shattuck motioned to table the ordinance. The motion was seconded by Councilor Milo and carried unanimously.
11. **Public Hearing Ordinance Amending Title 1, Chapter 2, of the Municipal Code of the City of Deming Regarding the Library Board of Trustees:** Mr. Sera recommended approval of the proposed ordinance which allows the County to substitute an appointee to the Library Board by eliminating the Higher Education Committee appointment. The ordinance also changes the dates of the Library Board meetings to even number months. Mayor Silva opened the floor for public comments of which none were received. Councilor Milo motioned to approve the Ordinance Amending Title 1, Chapter 2, of the Municipal Code of the City of Deming Regarding the Library Board of Trustees. The motion was seconded by Councilor Shattuck and carried unanimously.
12. **Ratification of AR DM 12-33 an Administrative Regulation Governing Official Personnel Folders (OPF):** Mr. McInturff recommended approval of the ratification of the administrative regulation which establishes the official personnel files will be kept by the

Human Resources Department. Mayor Pro Tem Franklin motioned to approve the ratification of AR DM 12-33 an Administrative Regulation Governing Official Personnel Folders (OPF). The motion was seconded by Councilor Milo and carried unanimously.

**13. Out of State Travel for Richard McInturff and Aaron Sera October 5th-10th, 2012 to attend the ICMA's Annual Conference in Phoenix, Arizona:** Mr. McInturff recommended approval of the travel request to attend the ICMA's Annual Conference. Mr. McInturff stated the ICMA is the lead professional organization for municipal managers. Mr. Sera stated that he attended the conference last year and it was by far the most educational conference he attended. Councilor Milo motioned to approve the Out of State Travel request for Richard McInturff and Aaron Sera, October 5th - 10th, 2012, to attend the ICMA's Annual Conference in Phoenix, Arizona. The motion was seconded by Mayor Pro Tem Franklin and carried unanimously.

**14. Out of State Travel for Aaron Sera and Richard McInturff to attend a Project Re-Scoping Meeting for the Peru Mill EDA Grant in Austin Texas between August 6th and August 17th:** Mr. Sera stated the City of Deming received a grant award from the Department of Commerce, Economic Development Administration (EDA) in the amount of 1.5 million to improve Arrowhead Drive at the Peru Mill Industrial Park. Part of the project scope included creating a diversion channel to eliminate a flood plain in the industrial park. Due to the cost exceeding funding availability, the City would not be able to continue with the project and a meeting has been requested to discuss re-scoping the project. Mr. Sera recommended approval of the request for himself and/or Mr. McInturff to travel to Austin, Texas to meet with EDA sometime between August 6th and 17th, 2012. Mayor Pro Tem Franklin motioned to approve the Out of State Travel for Aaron Sera and Richard McInturff to attend a Project Re-Scoping Meeting for the Peru Mill EDA Grant in Austin, Texas between August 6th and 17th, 2012. The motion was seconded by Councilor Shattuck and carried unanimously.

**15. Reschedule October 8th Regular City Council Meeting:** Mr. McInturff stated that he and Mr. Sera would be absent for the regular October 8th City Council meeting. He recommended Council have the regularly scheduled meeting in October and those items that need presentation by the administrators be addressed at a special meeting either, on or after, October 22nd. The Council was in agreement with the recommendation.

**16. Bids:**

**a. Bid #12-17 3000 PSI Redi-Mix Concrete:** Special Projects Coordinator Wesley Hooper recommended approval of the low bid received from Desert Valley Inc. Councilor Milo motioned to award Bid #12-17 to Desert Valley Inc. for \$89.00 per cubic yard of 3000 PSI Redi Mix Concrete with a standby fee of \$60.00 per hour and a short load fee of \$60.00. The motion was seconded by Councilor Shattuck and carried unanimously.

**b. Bid #12-18 Type II Base Course:** Mr. Hooper recommended approval of the lowest bid received from Desert Valley Inc. in the amount of \$5.95 per ton of Type II Base Course.

Councilor Shattuck motioned to approve Bid #12-18 for Type II Base Course to Desert Valley Inc. in the amount of \$5.95 per ton. The motion was seconded by Councilor Milo and carried unanimously.

**c. Bid #12-19 Washed 3/8 Inch Chip Rock:** Mr. Hooper recommended approval of the low bidder which was Desert Valley Inc. to provide washed 3/8 inch chip rock for \$19.45 per ton. Councilor Shattuck motioned to award Bid #12-19 Washed 3/8 Inch Chip Rock to Desert Valley Inc. in the amount of \$19.45 per ton. The motion was seconded by Councilor Milo and was approved unanimously.

**d. Bid #12-20 Washed 1/2 Inch Chip Rock:** Mr. Hooper recommended approval of the low bidder which was Desert Valley Inc. to provide washed 1/2 inch chip rock in the amount of \$19.45 per ton. Councilor Milo motioned to accept Bid #12-20 Washed 1/2 Inch Chip Rock in the amount of \$19.45 per ton. The motion was seconded by Councilor Sanchez and carried unanimously.

**e. Bid #12-21 Used 9 Wheel Pneumatic Roller:** Mr. Hooper recommended approval of the only bid received from Tom Growney Inc. out of Albuquerque in the amount of \$29,850.00 for a used 9 Wheel Pneumatic Roller. Mr. Hooper explained the Pneumatic Roller is the equipment used in chip sealing the roads. He also stated the roller would be bought on a lease to purchase agreement which allows for the City to return the equipment if it doesn't work. Councilor Shattuck motioned to accept the Bid #12-21 Used 9 Wheel Pneumatic Roller from Tom Growney Inc. in the amount of \$29,850.00. The motion was seconded by Mayor Pro Tem Franklin and carried unanimously.

**f. Bid #12-22 Sewer Main Utility Bore and Casing:** Public Works Director Lawrence Brookey recommended approval of the bid received from White Cloud Pipeline Corporation in the amount of \$43,220.00 for a 24 inch diameter steel casing, 180 linear feet long, sewer line to be installed on the east side of Columbus Highway connecting the existing Dona Ana main to the new Solana line. He reported that the Dona Ana main is running at capacity and there are plans for a new childcare facility and offices to be located between Dona Ana Rd. and Solana Rd. on the eastside of Columbus Highway. Councilor Shattuck asked why there was such a difference in price between the two bids received. Mr. Brookey explained that White Cloud has a lot of experience working with the City on the same type of projects. Councilor Shattuck motioned to approve bid #12-22 Sewer Main Utility Bore and Casing to White Cloud Pipeline Corporation in the amount of \$43,220.00 plus gross receipts tax. The motion was seconded by Councilor Milo and carried unanimously.

**17. Closed Session to Discuss the Purchase and Sale of Agricultural/Rural Properties Pursuant to NMSA 1978, Sections 10-15-1 (H)(8), of the Open Meetings Act:** Mayor Silva entertained a motion to go into Closed Session to discuss the purchase and sale of agricultural/rural properties pursuant to NMSA 1978, Section 10-15-1 (H)(8) of the Open Meetings Act. Councilor Sanchez motioned to go into Closed Session. The motion was seconded by Councilor Milo and was approved unanimously by a roll call vote.

Councilor Sanchez - Aye  
Mayor Pro Tem Franklin - Aye  
Councilor Shattuck - Aye  
Councilor Milo - Aye

Mayor Silva entertained a motion to come back into Open Session. Councilor Milo so moved; seconded by Councilor Sanchez and approved unanimously by a roll call vote.

Councilor Sanchez - Aye  
Mayor Pro Tem Franklin - Aye  
Councilor Shattuck - Aye  
Councilor Milo - Aye

Mayor Silva noted for the record that only items listed in the motion to go into closed session were discussed.

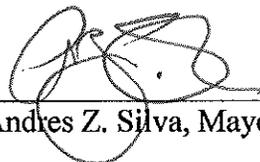
Mayor Pro Tem Franklin motioned to authorize staff to negotiate the sale of 2.18 acres along with improvements on the Marchak Farm based on the appraised value being less than \$25,000. In the event the appraised value is more than \$25,000 the sale must be brought back to Council for approval according to State Statute 3-54-1. The motion was seconded by Councilor Shattuck and carried unanimously.

Councilor Shattuck motioned to authorize the City Administrator to enter into negotiations to purchase the Monte Vista Farm containing approximately 160 acres with 113.77 acres of water rights and present the final agreed upon price to Council the final decision. The motion was seconded by Councilor Milo and carried unanimously.

**18. Adjourn Meeting:** Upon a motion by Mayor Pro Tem Franklin and a second by Councilor Milo the meeting was adjourned at 7:26 p.m.

*The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., August 13, 2012.*

CITY OF DEMING, NEW MEXICO

  
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Andres Z. Silva, Mayor

ATTEST:

  
\_\_\_\_\_  
Richard F. McInturff, Deputy Clerk

**CITY OF DEMING, NEW MEXICO**

**RESOLUTION No. 12-23**

**ENDORISING, SUPPORTING AND AUTHORIZING LUNA COUNTY TO APPLY FOR  
AND ENTER THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT  
CERTIFIED COMMUNITES INITIATIVE (CCI) PROGRAM**

**WHEREAS**, the scope of the Certified Communities Initiative Program application by Luna County, will include the City of Deming in a County-wide economic development effort to create jobs; and

**WHEREAS**, the Certified Communities Initiative Program is for the public good and will facilitate the recruitment, retention and expansion, or creation of employment in the County and City; and,

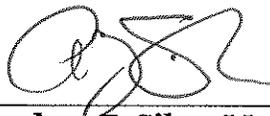
**WHEREAS**, Luna County has on-staff a full time economic development officer, who is also the Executive Director of Deming Luna County Economic Development Inc., the local economic development organization representing both the City of Deming and Luna County; and,

**WHEREAS**, The City of Deming will work in close conjunction with Luna County and with Deming Luna County Economic Development Inc. to foster new economic initiatives to create new employment opportunities and to retain existing jobs; and,

**NOW, THEREFORE, BE IT RESOLVED** that the City of Deming City Council hereby resolves to endorse Luna County as the sponsoring organization for the City of Deming, in the New Mexico Certified Communities Initiative and authorizes Luna County to enter the program on behalf of the community. The City Council also hereby establishes as a goal, the advancement of the City of Deming, to the level of the New Mexico Certified Communities Initiative. The City Council pledges its full support and participation in cooperation with Luna County and the Deming/Luna County Economic Development, Inc. in the attainment of this goal.

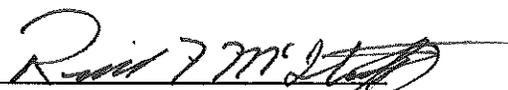
**PASSED, ADOPTED AND APPROVED THIS 9th day of July, 2012.**

**CITY OF DEMING**



**Andres Z. Silva, Mayor**

**ATTEST:**

  
**Richard F. McInturff, City Clerk**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE COUNTY OF LUNA, NEW MEXICO (the County)**

**AND**

**THE CITY OF DEMING, NEW MEXICO (the City)**

**AND**

**DEMING LUNA COUNTY ECONOMIC DEVELOPMENT, INC. (DLCED)**

**PROVIDING FOR THE IMPLEMENTATION OF THE CERTIFIED COMMUNITIES  
INITIATIVE PROGRAM**

**1.0 BACKGROUND**

Luna County and the City of Deming have agreed that Luna County will make application to the New Mexico Department of Economic Development (NMEDD) under the NMEDD's Certified Communities Initiative Program. The County and the City believe that an application made on a regional basis will provide a more coordinated effort to create new economic initiatives and new jobs, as well as retain jobs, for the betterment and well-being of all Luna County communities.

The City of Deming has prepared and adopted a resolution authorizing the County to include the City of Deming in the application to the NMEDD. The County will receive any funding and direct it to the most appropriate programs to create and retain jobs.

The County has a full-time economic development officer on staff to help coordinate and implement the economic programs on a regional (county-wide) basis and will represent the County and the City in all implementation efforts. The County economic development officer is also the Executive Director of Deming Luna County Economic Development, Inc., a County-wide economic development organization supported by both the City and the County.

The County and the City have agreed to work together in a regional manner toward developing and implementing economic Initiative that will create new jobs, retain existing jobs, create additional tax revenue for the communities and improve the quality of life for the region.

The County and the City are also agreed that Deming Luna County Economic Development, Inc. is an appropriate organization to carry out implementation of various economic development programs, including, but not limited to, a business expansion/retention program, a marketing program, a business plan and various training programs.

**2.0 PURPOSE OF THE MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding is to provide a basic understanding of those matters agreed to by the parties and to provide a time frame and authority to modify the agreement as necessary and appropriate.

### **3.0 TERM OF THE MEMORANDUM OF UNDERSTANDING**

The Term of this Memorandum of Understanding shall be for an initial period of thirty-six (36) months. This Memorandum of Understanding shall commence upon its adoption by the County, the City, and DLCED.

If necessary, this Memorandum of Understanding may be extended or modified by mutual written agreement of the County, the City, and DLCED for a period of time to be agreed upon by all parties.

### **4.0 ACCOUNTING**

As the applicant for certification under the NMEDD Certified Communities Initiative Program, the County agrees to provide for strict accountability of all monies collected and spent under the provisions of this Memorandum of Understanding.

### **5.0 MAINTENANCE OF RECORDS**

The County, the City, and DLCED agree to maintain records as required by applicable law and regulation. The County and the City may view one another's records as they relate to this Memorandum of Understanding and either the County or the City may view records of DLCED, upon request, during normal business hours.

### **6.0 TERMS OF THE MEMORANDUM OF UNDERSTANDING**

The following terms shall define the working relationship between the County, the City, and DLCED under this Memorandum of Understanding.

- 6.1 The County and the City agree that the County shall apply for certification, on a regional basis, under the NMEDD Certified Communities Initiative Program and that the County will be the recipient of, and responsible for, any funds from the NMEDD.
- 6.2 The County and the City agree that Deming Luna County Economic Development, Inc. (DLCED) will take responsibility for the implementation of programs under the certified Communities Initiative Program.
- 6.3 The County has a full-time Economic Development Officer on staff who will act on behalf of both the City and the County under this Memorandum of Understanding and for purposes of implementing the programs under the Certified Communities Initiative Program. The County Economic Development Officer is also the Executive Director of DLCED.

- 6.4 DLCED shall implement programs identified in the County application for certification under the Certified Communities Initiatives Program. DLCED may develop and propose additional economic initiatives programs for approval of the County and City, which programs will be directed toward the retention and creation of jobs.
- 6.5 The County Economic Development Officer (Executive Director of DLCED) shall be the point of contact for the NMEDD and programs developed and implemented under the Certified Communities Initiatives Program. The County Economic Development Officer (Executive Director of DLCED) shall generally be responsible for the keeping of all records, notes and outcomes under this Memorandum of Understanding and under all programs developed and implemented under the Certified Communities Initiatives Program.
- 6.6 The County Economic Development Officer (Executive Director of DLCED), shall provide monthly status reports to the County Commission and the City Council in the progress of the DLCED in implementing programs. It is understood by all parties that dealings with prospective businesses may be confidential and that names and detail Initiatives of the nature and needs of the business cannot be revealed.
- 6.7 The County and the City agree to refer prospective business investors to the DLCED or to directly involve the Executive Director of the DLCED in discussions with prospective businesses.
- 6.8 The County Economic Development Officer (Executive Director of DLCED) shall keep detailed records of negotiations and discussions with prospective businesses interested in the Deming Luna County region.

**7.0 MODIFICATIONS**

This Memorandum of Understanding may be modified by written agreement of the County, the City, and DLCED with concurrence by the other two parties. Either the City by Resolution of the City Council, or the County by Resolution of the County Commission, may initiate a change to this Memorandum of Understanding.

Dated this 9 day of July, 2012.

**LUNA COUNTY**

BY J. J. [Signature]  
 Chairperson, Board of County  
 Commissioners

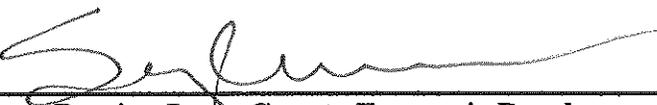
Attest, [Signature]  
 County Clerk

**CITY OF DEMING**

By [Signature]  
 Mayor

Attest, [Signature]  
 City Clerk

**DEMING LUNA COUNTY ECONOMIC DEVELOPMENT, INC.**

By   
\_\_\_\_\_  
President, Deming Luna County Economic Development, Inc.

Attest   
\_\_\_\_\_  
Director, Deming Luna County Economic Development, Inc.

ORDINANCE NO. 1225

AN ORDINANCE AMENDING TITLE 12 "Zoning Regulations" 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 12, Chapter 7, Section 1, of the City of Deming Municipal Code is hereby amended by inserting the following:

K. Administrative Variance:

Where it is deemed that encroachment upon any required setbacks will not necessarily create a sight obstruction or significantly compromise the continuity with regard to existing buildings, an "Administrative Variance" may be granted with concurrence on both by the City Administrator and the Assistant City Administrator:

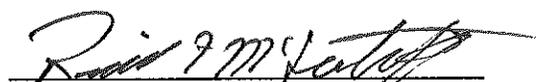
1. Variance from the application of area, height, dimension, distance, parking or setback requirements of this title may be allowed in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical condition where the strict application of the requirements of this title would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his land or building. Practical difficulty or unnecessary hardship is not sustained when financial gain, loss or monetary savings is the basis for the claim of hardship.
2. The administrative variance process must include adjacent property owner notifications within one hundred (100) feet and adhere to the protest provisions of 12-11-1D and 12-11-2.
3. Filing Fee: A non-refundable fee of twenty-five dollars (\$25.00) shall be paid at the time the administrative variance is filed.
4. Filing Of Appeal: Appeals to the Council may be filed by any person aggrieved by any decision of city officials with regard to this administrative variance decision. Such appeal shall be in accordance with procedures as set forth in Title 12, Chapter 8.
5. The right of appeal to City Council shall be taken, as set forth in 12-8-3, within a reasonable time. A reasonable time shall be no later than sixty days after a written decision is rendered to the applicant.
6. Administrative variances granted shall cause a decision order to be filed and recorded at the Luna County Clerk's Office.

PASSED, ADOPTED, AND APPROVED, this 9<sup>th</sup> day of July, 2012.

CITY OF DEMING, NEW MEXICO

  
\_\_\_\_\_  
Andres Z. Silva, Mayor

ATTEST:

  
\_\_\_\_\_  
Richard F. McInturff, Clerk

ORDINANCE NO. 1226

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

Section 2-2-2 of the Municipal Code of said City is deleted in its entirety and replaced with the following:

**2-2-2: LIBRARY BOARD ESTABLISHED; TERMS:**

A. Appointments: There shall be, and hereby is established for the operation of said library a board of trustees to be known as the Deming public library board of trustees, which board shall consist of seven (7) members and shall be appointed from among the residents of Luna County, New Mexico. Four (4) members shall be appointed by the mayor, with the advice and consent of the City Council; two members shall be appointed by the chair of the Board of County commissioners of Luna County, with the advice and consent of the Board of County Commissioners of Luna County; one member shall be appointed by the chair of the Deming Public Schools Board of Education, with the advice and consent of said Board of Education.

B. Terms: The terms of appointments shall be as follows: The member appointed by said Board of Education, one member appointed by said Board of County Commissioners and one member appointed by the City shall serve for the term of one year; one of the members appointed by the city and one member appointed by said Board of County Commissioners shall serve for the term of two (2) years; and two (2) members appointed by the City shall serve for the term of three (3) years from and after the initial appointment and the adoption of this section in 2002.

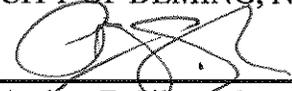
The following section 2-2-8 is added to Chapter 2:

**2-2-8: MEETINGS:**

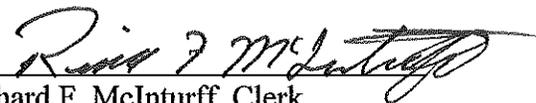
The Library Board shall meet on the last Tuesday of even numbered months or as needed basis as determined by staff or by the board. Time and place of the meeting will be set by staff.

PASSED, ADOPTED, AND APPROVED, this 9<sup>th</sup> day of July, 2012.

CITY OF DEMING, NEW MEXICO

  
\_\_\_\_\_  
Andres Z. Silva, Mayor

ATTEST:

  
\_\_\_\_\_  
Richard F. McInturff, Clerk