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POPULATION 14,000

## **CDBG PUBLIC HEARING**

**November 13, 2012**

6:00 P.M.

### **AGENDA**

Call to Order / Pledge of Allegiance

1. Open Public Hearing for the 2013 Community Development and Planning Applications
  - A. CDBG Progress Report
  - B. Input - General Community
  - C. Input - Planning
  - D. Selection of Project for Fiscal Year 2013
  - E. Close CDBG Hearing

## **CITY COUNCIL MEETING**

**November 13, 2012**

4:00 P.M. CITY COUNCIL WORKSHOP

6:00 P.M. CITY COUNCIL MEETING

### **AGENDA**

Call to Order

1. Consent Agenda
  - A. Minutes - City Council Workshop and Regular Meeting 10/08/12
  - B. Minutes - City Council Special Meeting 10/18/12
  - C. Minutes - Planning and Zoning Commission Meeting 10/15/12
  - D. Minutes - Airport Commission Meeting 10/9/12
  - E. Minutes - Tourism Development Committee Meeting (no meeting scheduled)
  - F. Minutes - Marshall Memorial Library Board Meeting 10/30/12
  - G. Minutes - Parks Commission Meeting (no meeting scheduled)
  - H. Minutes - Historic Landmark Commission (no meeting scheduled)
  - I. Ratification of Job Descriptions
  - J. Ratification of Proclamation Declaring November "National Hospice and Palliative Care Month"
  - K. Ratification of Proclamation Declaring October 18, 2012 as "Lights On Afterschool Day"

2. Public Forum
3. Presentation of Certificate of Appreciation to Jesus Orozco from the City of Deming Police Department
4. Proclamation Declaring November 12-16, 2012 as "American Education Week"
5. Approval of City of Deming 2013 Holiday Schedule
6. Approval of Addendum 1 to the City of Deming Personnel Policy and Procedures Manual dated April 2012
7. Public Hearing to Consider Ordinance Amending Title 1, Chapter 8, Section 5 of the Municipal Code of the City of Deming, New Mexico Concerning the Municipal Personnel System
8. Public Hearing to Consider Ordinance Amending Title 9, Chapter 3, Section 1C, of the Municipal Code of the City of Deming (Water and Sewer Tap Fees)
9. Public Hearing to Consider Ordinance Amending Title 9, Chapter 7, Section 10, (Water, Sewer, and Gas Connection Fees)
10. Public Hearing to Consider Granting an Extension for a Special Use Permit for the Operation of the ASARCO Mill Located on Peru Mill Road
11. Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for a Used Car Dealership to be Located at 1617 South 8th Street
12. Quasi-Judicial Public Hearing to Consider Granting a Request for a Parking Variance for a Proposed Tractor Supply Company Store located on East Pine Street between South Diamond Avenue and South Ruby Street.
13. Tulip Landfill Progress Report by Lawrence Brookey
14. Resolution Authorizing Transfer Ownership of Tulip Landfill Property to Luna County
15. Bid #13-05 Solid Waste Department Transport Services
16. Closed Session: To Discuss Real Estate Pursuant to NMSA 1978, Sections 10-15-1 (H) (7) and Possible Litigation Pursuant to NMSA 1978, 10-15-1 (H) (8) of the Open Meetings Act.
17. Adjourn Meeting

*The next regular City Council Workshop and Meeting are scheduled for 4:00 p.m. and 6:00 p.m. on December 10, 2012*

**CITY COUNCIL  
WORKSHOP MINUTES  
November 13, 2012**

**Council Present:** Linda Franklin, Mayor Pro Tem

**Council Absent:** Andres Z. Silva, Mayor  
David Sanchez, Councilor  
William Shattuck, Councilor  
Joe "Butter" Milo, Councilor

**Staff Present:** Richard McInturff, Administrator  
Lawrence Brookey, Public Works Director  
Michael Carrillo, Police Chief  
Lila Jasso, Administrative Secretary  
Rick Kocab, Assistant Treasurer  
Edgar Davalos, Fire Chief  
Gina Gentile, City Planner

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

City Council and staff members of the City of Deming, New Mexico held a workshop on November 13, 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:

**Open Public Hearing for the 2013 Community Development and Planning Applications:** It was determined that Lawrence Brookey would be presenting the progress report for the CDBG public hearing as well as a staff project recommendation for the fiscal year 2013 application cycle.

**Consent Agenda:** Mayor Pro Tem Franklin pointed out a clerical error in the Workshop Minutes of October 8, 2012, which Ms. McWright offered to correct before the regular meeting. Mayor Pro Tem Franklin also stated that she was not in favor of ratifying the proclamation for National Hospice and Palliative Care Month due to the fact that only one of the hospice providers were listed and Ambercare was not included in the proclamation. Mr. McInturff stated the proclamation would be revised to include Ambercare. Mr. McInturff stated that the job descriptions listed in the consent agenda are mostly revised descriptions and only four of them are new.

**Presentation of Certificate of Appreciation to Jesus Orozco from the City of Deming Police Department:** Mayor Pro Tem Franklin stated that she would present the Certificate of Appreciation to Jesus Orozco.

**Proclamation Declaring November 11-17, 2012 as "American Education Week":** Mayor Pro Tem Franklin stated that she would present the proclamation regarding "American Education Week."

**Approval of the City of Deming 2013 Holiday Schedule:** Mr. McInturff stated that he would present the 2013 Holiday Schedule which normally follows the State schedule and provides for eleven vacation days.

**Approval of Addendum 1 to the City of Deming Personnel Policy and Procedures Manual Dated April 2012:** Mr. McInturff stated that the municipal court since it is a separate branch of government is responsible for establishing personnel policies for Municipal Court employees. The Municipal Judge may choose to have court employees covered by the same personnel policies as City employees, but is not required to do so. Mr. McInturff explained the addendum also changes the language regarding the pay plan to include the rate of pay of an employee promoted to a position in a higher range shall be 3.5% higher than his previous rate of pay unless that increase would exceed the maximum pay of that range.

**Public Hearing to Consider Ordinance Amending Title 1, Chapter 8, Section 5 of the Municipal Code of the City of Deming, New Mexico Concerning the Municipal Personnel System:** Mr. McInturff stated the ordinance clarifies the requirements for the Municipal personnel system as it applies to the Municipal Court employees.

**Public Hearing to Consider an Ordinance Amending Title 9, Chapter 3, Section 1C, of the Municipal Code of the City of Deming (Water and Sewer Tap Fees):** Mr. Brookey stated the ordinance is the same as the old ordinance except for the (8" - 12" Mains) and that he would be presenting the ordinance.

**Public Hearing to Consider Ordinance Amending Title 9, Chapter 7, Section 10, (Water, Sewer, and Gas Connection Fees):** Mr. McInturff stated the frontage fee for Solana, Chicken Farm and Dona Ana Road were too expensive and cost prohibitive for the public. Mr. Brookey stated the ordinance eliminates the fees for areas that are residential and the fees for the areas that are commercial remained the same.

**Public Hearing to Consider Granting an Extension for a Special Use Permit for the Operation of the ASARCO Mill Located on Peru Mill Road:** Mr. McInturff stated that he would present the agenda item for extension of the special use permit for the operation of the Asarco Mill and that John Strand would be present to answer questions.

**Quasi-Judicial Public Hearing to Consider a Granting a Special Use Permit for a Used Car Dealership to be located at 1617 South 8th Street:** Ms. Gentile stated that she would be presenting the request from Eduardo Castrejon for a special use permit to sell cars on his property located at 1617 S. 8th Street and that Mr. Castrejo would be present.

**Quasi-Judicial Public Hearing to Consider Granting a Request for a Parking Variance for a Proposed Tractor Supply Company Store Located on East Pine Street Between South Diamond Avenue and South Ruby Street:** Ms. Gentile stated that she would be presenting the parking variance request for the proposed Tractor Supply Company Store located on East Pine Street in the old grocery store building.

**Tulip Landfill Progress Report by Lawrence Brookey:** Mr. Brookey stated that he would be presenting the progress report for the Tulip Landfill as well as the following resolution which authorizes the transfer of ownership of the property to Luna County.

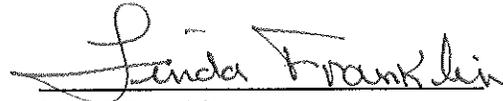
**Resolution Authorizing Transfer of Ownership of Tulip Landfill Property to Luna County:** Mr. Brookey will present the resolution authorizing the transfer of ownership of the Tulip Landfill property to Luna County.

**Bid #13-05 Solid Waste Department Transport Services:** Mr. Brookey stated that he will present a recommendation for Bid #13-05 for the solid waste department transport services.

**Closed Session to Discuss Real Estate Pursuant to NMSA 1978, Sections 10-15-1(H)(8), and possible Litigation Pursuant to NMSA 1978, 10-15-1(H)(7) of the Open Meetings Act:** Mr. McInturff stated that he would present the items for closed session and that members of the Deming Public School Board would be present.

**Adjourn Meeting:** Mayor Silva adjourned the Workshop at 4:29 p.m.

CITY OF DEMING, NEW MEXICO

  
Linda Franklin, Mayor Pro Tem

ATTEST:

  
Richard F. McInturff, Clerk

# CITY COUNCIL MEETING MINUTES

November 13, 2012

**Council Present:** Joe "Butter" Milo, Councilor  
Linda Franklin, Mayor Pro Tem

David Sanchez, Councilor  
William Shattuck, Councilor

**Council Absent:** Andres Z. Silva, Mayor

**Staff Present:** Richard McInturff, Administrator  
Richard Kocab, Assistant Treasurer  
Lawrence Brookey, Public Works Director  
Edgar Davalos, Fire Chief

Jim Foy, Attorney  
Michael Carrillo, Police Chief  
Gina Gentile, City Planner

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

Mayor Pro Tem Franklin 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 10/08/12
- B. Minutes - City Council Special Meeting 10/18/12
- C. Minutes - Planning and Zoning Commission Meeting 10/15/12
- D. Minutes - Airport Commission Meeting 10/9/12
- E. Minutes - Tourism Development Committee Meeting (no meeting scheduled)
- F. Minutes - Marshall Memorial Library Board Meeting 10/30/12
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- H. Minutes - Historic Landmark Commission (no meeting scheduled)
- I. Ratification of Job Descriptions
- J. Ratification of Proclamation Declaring November "National Hospice and Palliative Care Month"
- K. Ratification of Proclamation Declaring October 18, 2012 as "Lights On Afterschool Day"

Upon a motion by Councilor Milo and a second by Councilor Shattuck the items of the Consent Agenda were unanimously approved.

## 2. Public Forum: A public comment period was entertained:

3. **Presentation of Certificate of Appreciation to Jesus Orozco from the City of Deming Police Department:** Chief Carrillo presented a certification of appreciation to Jesus Orozco for his outstanding actions in assisting Corporal Alicia Granillo with an arrest at Wal-Mart.

4. **Proclamation Declaring November 11-17, 2012 as "American Education Week":** Mayor Pro Tem Franklin recommended approval of the proclamation recognizing November 11-17, 2012 as the 91st annual observance of American Education Week. Councilor Sanchez motioned to approve the "American Education Week" Proclamation. The motion was seconded by Councilor Milo and carried unanimously.
5. **Approval of City of Deming 2013 Holiday Schedule:** Mr. McInturff recommended approval of holiday schedule for 2013 which consists of eleven paid holidays. Mr. McInturff stated that the City usually follows the same schedule as the State and the State's holiday schedule was not yet available. In the event the schedules are different, a new schedule will be presented for Council's approval at a later date. Councilor Shattuck motioned to approve the City of Deming 2013 Holiday Schedule as presented. The motion was seconded by Councilor Milo and carried unanimously.
6. **Approval of Addendum 1 to the City of Deming Personnel Policy and Procedures Manual dated April 2012:** Mr. McInturff recommended approval of the addendum to the personnel policy which provides for exceptions to the Municipal Personnel System concerning the responsibilities of the Municipal Judge for establishing and carrying out personnel policies. The addendum also provides a change in language regarding the pay plan. The proposed change provides for the rate of pay of an employee promoted to a position in a higher range shall be 3.5% higher than his previous rate of pay unless that increase would exceed the maximum pay of the new range. Councilor Shattuck motioned to approve the Addendum 1 to the City of Deming Personnel Policy and Procedures manual dated April 2012. The motion was seconded by Councilor Sanchez and carried unanimously.
7. **Public Hearing to Consider Ordinance Amending Title 1, Chapter 8, Section 5 of the Municipal Code of the City of Deming, New Mexico Concerning the Municipal Personnel System:** Mr. McInturff recommended approval of the ordinance which provides for the responsibilities of the Municipal Judge to adopt personnel policies for Municipal Court employees unless the Judge chooses to use the City policies. Mr. McInturff stated that the current Judge has signed a memorandum of understanding in which he adopts use of the City's Personnel Policies. Mayor Pro Tem Franklin opened the floor for public comments of which none were received. Councilor Milo expressed concern for the employees of the Municipal Court in the event a Judge is elected that wants to lay off the employees. City Attorney Jim Foy explained that there is case law on this issue and the reason the City is adopting this ordinance is to catch up on the case law. Councilor Milo motioned to approve the ordinance amending Title 1, Chapter 8, Section 5 of the Municipal Code of the City of Deming, New Mexico concerning the Municipal Personnel System. The motion was seconded by Councilor Shattuck and carried unanimously.
8. **Public Hearing to Consider Ordinance Amending Title 9, Chapter 3, Section 1C, of the Municipal Code of the City of Deming (Water and Sewer Tap Fees):** Mr. Brookey recommended approval of the ordinance which provides for allowing affordable use of large utility mains presently installed. Mr. Brookey pointed out the changes from the existing ordinance which includes higher costs for the larger water and sewer mains only. Mayor Pro Tem Franklin opened the floor for public comments of which none were received. Councilor

Milo expressed concern regarding fees for individuals wanting to tap into the water and the sewers. Mr. Brookey explained that the costs associated with connecting to a larger main are higher and the prices have been changed to reflect the actual sizes of the mains and are no longer based on whether the connection is in the city limits or out of the city limits. Councilor Shattuck motioned to adopt the ordinance amending Title 9, chapter 3, Section 1C, of the Municipal Code of the City of Deming. Mr. McInturff pointed out that this ordinance is a companion to the next ordinance on the agenda. Councilor Shattuck motioned to table the ordinance until the next item on the agenda is considered. Councilor Milo seconded the motion which carried unanimously.

- 9. Public Hearing to Consider Ordinance Amending Title 9, Chapter 7, (Water, Sewer, and Gas Connection Fees):** Mr. Brookey recommended approval of the ordinance amending Title 9, Chapter 7, in which the frontage fees for Cedar Street, Solano Road, Peru Mill Road Project, Hermanas Grade, Dona Ana Road, Skyview Road, Florida Street, Pear Street and Ash Street Projects have been deleted except for the Cedar Street Project area. Mayor Pro Tem Franklin opened the floor for public comments. John Strand stated that in the past the reason the rates were higher for outside residents was to entice them to annex into the city limits and suggested the City include a clause that residents will not oppose annexation in the future. Henry Baca a local resident asked why there was an \$800 tap fee. Mr. Brookey explained that bids were obtained that justify the cost of the tap fees according to the size of the main.

Councilor Shattuck motioned to bring the ordinance amending Title 9, Chapter 3, Section 1C, back to the table. The motion was seconded by Councilor Sanchez and carried unanimously.

Councilor Shattuck motioned to approve the ordinance amending Title 9, Chapter 3, Section 1C, of the Municipal code of the City of Deming concerning water and sewer tap fees (agenda item #8). The motion was seconded by Councilor Milo and carried unanimously.

Councilor Shattuck motioned to approve the ordinance amending Title 9, Chapter 7, concerning water, sewer, and gas connection fees (agenda item #9.) The motion was seconded by Councilor Sanchez and carried unanimously.

- 10. Public Hearing to Consider Granting an Extension for a Special Use Permit for the Operation of the ASARCO Mill Located on Peru Mill Road:** Mr. McInturff recommended approval of granting an extension for the Special Use Permit for the operation of the ASARCO Mill located on Peru Mill Road. Mr. McInturff explained that the permit was granted with the condition that the mill would begin operation within a five year period. Due to the delay in the transfer of ownership and the loss of some equipment and copper wire from theft, ASARCO is requesting an additional three year extension of the special use permit. John Strand speaking on behalf of ASARCO stated the property has been part of a trust which has caused a delay in the transfer of ownership which should be obtained soon. He explained that ASARCO was abandoned by Grupo Mexico about eight years ago and due to a lawsuit, it was bought back by Grupo Mexico, with the money being placed in a trust. The clean-up work has been done by the State of New Mexico and the trust has taken more time to complete the requirements by the State. Mr. McInturff asked Mr. Strand what

the estimated economic impact for the Mill is for the City. Mr. Strand stated during full operation the mill will have 15 to 24 employees. Councilor Sanchez motioned to grant an extension of the Special Use Permit for the operation of the ASARCO Mill located on Peru Mill Road for a period of three years ending March of 2016. The motion was seconded by Councilor Milo and carried unanimously.

11. **Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for a Used Car Dealership to be Located at 1617 South 8th Street:** Mayor Pro Tem Franklin conducted a Quasi-Judicial Public Hearing to consider granting a special use permit for a used car dealership to be located at 1617 South 8th Street. Mayor Pro Tem Franklin confirmed that Council had no conflicts of interest; that the public notices were legally posted; and swore in all parties who would be giving testimony. City Planner Gina Gentile reported that there is currently a transmission repair shop operating out of the same location that is not in compliance with their special use permit. The conditions of the transmission repair shop's special use permit included that the fence was to have modifications to make a visual barrier so that cars would not be visible in front of the business. Ms. Gentile recommended the request be rejected until compliance with the previous special use permit on the same property was met. She recommended the vehicles that were being repaired be stored behind a visual barrier and the vehicles for sale could be visible from the street. Mayor Pro Tem Franklin opened the floor for the applicant to make a statement. Eduardo Castrejon stated that he would like to start a business selling used cars on his property which is currently being leased by the transmission shop business. He stated they plan to sell five to ten cars at a time and the transmission shop business will also continue. Mr. Castrejon was not aware that the transmission shop was not in compliance with their special use permit on his property. Mr. Castrejon stated they would operate out of the same building as the transmission shop. Mayor Pro Tem Franklin opened the floor for any affected parties or any other persons wishing to speak and there were no further comments. Mayor Pro Tem Franklin asked if the Council was prepared to make a motion or if they wanted to go into Closed Session pursuant to NMSA 1978 10-15-01(H)(3). Councilor Sanchez motioned to go into Closed Session. The motion was seconded by Councilor Shattuck and approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye
Councilor Milo	Aye

Councilor Sanchez motioned to come back into Open Session. The motion was seconded by Councilor Milo and was approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye
Councilor Milo	Aye

Councilor Shattuck motioned to grant a special use permit for a used car dealership to be located at 1617 South 8th Street with the following conditions; the current tenant comes into compliance with the previous special use permit granted, the repaired vehicles be placed behind a visual barrier, the proper licensing is obtained to sell used vehicles and the permit is only granted for 90 days unless all conditions are met and verified by code enforcement. The motion was seconded by Councilor Sanchez and was approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye
Councilor Milo	Aye

Mayor Pro Tem Franklin 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.

**12. Quasi-Judicial Public Hearing to Consider Granting a Request for a Parking Variance for a Proposed Tractor Supply Company Store located on East Pine Street between South Diamond Avenue and South Ruby Street:** Mayor Pro Tem Franklin conducted a Quasi-Judicial Public Hearing to consider granting a request for a Parking Variance for a proposed Tractor Supply Company Store located on East Pine Street between South Diamond Avenue and South Ruby Street. Mayor Pro Tem Franklin confirmed that Council had no conflicts of interest; that the public notices were legally posted; and swore in all parties who would be giving testimony. Ms. Gentile reported that the applicant, Glen Oxford of Oxford Architecture, on behalf of the Tractor Supply Company, is proposing to refurbish the old Furr's/Safeway building and utilize the existing parking lot. She explained that the Tractor Supply Company typically has two outside storage areas that are necessary for the operation of their business, which will take up some of the existing on-site parking area. Also, the company claims to require less parking than our City code requires based on their market studies. The TSC store is proposing to use only half of the building space. Using the calculations from the City code, the TSC store would be required to have at least 103 parking spaces, therefore the applicants would like to have a variance on parking requirements, allowing them to use the 39 spaces they are proposing. There is also 24 parking spaces along Diamond Street which are located in the city right-of-way. Mayor Pro Tem Franklin opened the floor for any affected parties or any other persons wishing to speak and there were no further comments. Councilor Milo motioned to approve the parking variance for the proposed Tractor Supply Company Store located on East Pine Street between South Diamond Avenue and South Ruby Street. Councilor Shattuck made a friendly amendment to the motion that the variance be granted for 39 spaces as presented in the request. Councilor Sanchez seconded the motion and the friendly amendment which carried unanimously upon a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye

Mayor Pro Tem Franklin 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.

**13. Tulip Landfill Report by Lawrence Brookey:** Mr. Brookey provided the following report regarding the Tulip Landfill:

The Tulip Landfill is located north of Deming and the Mimbres River runs through the north side of the property. The landfill was used by the Deming Army Airfield as the City dump from 1941 through 1969. Dumping operations consisted of piling of waste and periodic burning of debris on this 80-acre site. A thin soil cap was later placed over the waste area to minimize blowing debris. Due to erosion, waste is periodically exposed and washing to the Mimbres River. The Environmental Protection Agency (EPA) offers several assistance programs to evaluate and cleanup areas like the Tulip Landfill to move properties towards reuse and/or redevelopment. One program is the Brownfields Assessment program. Owners of landfill sites are not eligible for Brownfields Assessment grants. In September 2010, a Brownfields Assessment Grant was awarded to Luna County to perform Phase I and Phase II Environmental Site Assessments at the Tulip Landfill. The assessments consisted of subsurface, deep soil and groundwater samples. Results of the soil sampling indicate the presence of several organic constituents at trace concentrations. Groundwater samples showed no exceedences in EPA or New Mexico Environment Department Groundwater Quality standards. The Site qualifies for a \$200,000 FY13 Brownfields Cleanup Grant. Since the City of Deming was the owner of the Tulip Landfill when the landfill was in use the City is not eligible for Brownfields Cleanup Grant funding. To be eligible to receive a cleanup grant the applicant must be the sole owner of the site that is the subject of its cleanup grant proposal and must own the site by November 19, 2012. The City of Deming is presently working on transferring ownership of the Tulip Landfill site to Luna County for the duration of the Brownfields Cleanup Grant implementation. The scope of work associated with the cleanup will be consolidation of the numerous surface litter and debris piles, design and installation of a soil cap, bank stabilization and erosion control of land located along the Mimbres River and ultimately a river trail for public use.

**14. Resolution Authorizing Transfer Ownership of Tulip Landfill Property to Luna County:** Mr. Brookey recommended approval of the resolution authorizing the transfer of ownership of the Tulip Landfill from the City of Deming to Luna County for the purpose implementing the Brownfields Cleanup Grant. Councilor Shattuck motioned to approve the

resolution authorizing transfer of ownership of the Tulip Landfill Property to Luna County. The motion was seconded by Councilor Sanchez and carried unanimously.

15. **Bid #13-05 Solid Waste Department Transport Services:** Mr. Brookey stated that the bid was advertised to obtain lump sum pricing to provide semi-truck, fuel and maintenance to transport full City owned 48 foot long trailers from the Transfer Station to the Butterfield Trail Regional Landfill then return to the Transfer Station. Mr. Brookey reported that only one bid was received in the amount of \$125 per trip, which is approximately 150% more than present City costs. Mr. Brookey recommended the bid from AT Disposal be rejected. Councilor Sanchez motioned to reject the only bid received from AT Disposal for Bid #13-05 Solid Waste Department Transport Services. The motion was seconded by Councilor Milo and carried unanimously.
16. **Closed Session: To Discuss Real Estate Pursuant to NMSA 1978, Sections 10-15-1 (H) (7) and Possible Litigation Pursuant to NMSA 1978, 10-15-1 (H) (8) of the Open Meetings Act:** Mayor Pro Tem Franklin entertained a motion to go into Closed Session to discuss real estate pursuant to NMSA 1978, Sections 10-15-1 (H)(7) and possible litigation pursuant to NMSA 1978, 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 carried unanimously following a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye
Councilor Milo	Aye

Mayor Pro Tem Franklin announced that nothing was voted on in Closed Session and no other items were discussed other than the items mentioned in the motion to close. Councilor Sanchez motioned to go into Open Session. The motion was seconded by Councilor Milo and carried unanimously upon a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye
Councilor Milo	Aye

Councilor Shattuck motioned to grant the Mayor and City Administrator authority to execute a settlement agreement substantially in its form with Production Credit Association of Southern New Mexico that was reviewed in Closed Session. The motion was seconded by Councilor Milo. Councilor Sanchez made a friendly amendment to include the concurrence by the City Attorney of any subsequent edits. The amendment was seconded by Councilor Milo and the motion carried unanimously.

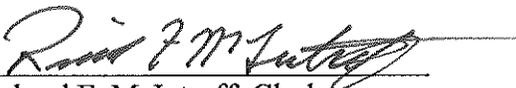
17. **Adjourn Meeting:** Upon a motion by Councilor Sanchez and a second by Councilor Milo the meeting was adjourned at 8:55 p.m.

*The next regular City Council Workshop and Meeting are scheduled for 4:00 p.m. and 6:00 p.m. on December 10, 2012*

CITY OF DEMING, NEW MEXICO

  
Linda Franklin, Mayor Pro Tem

ATTEST:

  
Richard F. McInturff, Clerk

## PROCLAMATION

National Hospice and Palliative Care Month Proclamation  
November 2012

*Hospice and Palliative Care...living longer with loving care.*

**WHEREAS**, Mimbres Valley Hospice offers the highest quality services and support to patients and family caregivers facing serious and life limiting illness;

**WHEREAS**, Through pain management and symptom control, caregiver training and assistance, and emotional and spiritual support, allowing patients to live fully up until the final moments, surrounded and supported by the faces of loved ones, friends and committed caregivers;

**WHEREAS**, The provision of quality hospice and palliative care reaffirms our belief in the essential dignity of every person, regardless of age, health, or social status, and that every stage of human life deserves to be treated with the utmost respect and care;

**WHEREAS**, Every year more than 1.5 million Americans living with life limiting illness, and their families, received care from the nations hospice programs, including Mimbres Valley Hospice, in communities throughout the United States;

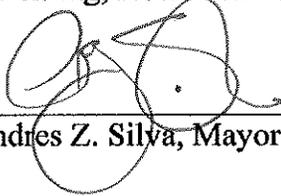
**WHEREAS**, More than 468,000 trained volunteers contribute 22 million hours of service to hospice program annually;

**WHEREAS**, Mimbres Valley Hospice, a member of the National Hospice and Palliative Care Organization, encourages all people to learn more about the options of care and to share their wishes with family, loved ones and their healthcare professionals.

**NOW THEREFORE, BE IT PROCLAIMED** by the Mayor and Council of the City of Deming, that the month of November shall be known as:

**"NATIONAL HOSPICE/PALLIATIVE CARE MONTH"**

Done this 18<sup>th</sup> day of October, 2012, in the City of Deming, New Mexico.

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

ATTEST:

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

# PROCLAMATION

## KEEPING THE LIGHTS ON AFTERSCHOOL

**Whereas**, the citizens of Deming and Luna County, New Mexico, stand firmly committed to quality afterschool programs and opportunities because they:

- Provide safe, challenging, engaging and fun learning experiences to help children and youth develop their social, emotional, physical, cultural and academic skills.
- Support working families by ensuring their children are safe and productive after the regular school day ends.
- Build stronger communities by involving our students, parents, business leaders and adult volunteers in the lives of our young people, thereby promoting positive relationships among children, youth, families and adults.
- Engage families, schools and diverse community partners in advancing the welfare of our children

**Whereas**, the Afterschool Program has provided significant leadership in the area of community involvement in the education and well-being of our youth, grounded in the principle that quality afterschool programs are key to helping our children become successful adults.

**Whereas**, *Lights on Afterschool*, a national celebration of afterschool programs on **October 18, 2012** promotes the critical importance of quality afterschool programs in the lives of children, their families and their communities.

**Whereas**, more than 28 million children in the U.S. have parents who work outside the home, and 15.1 million children have no place to go after school.

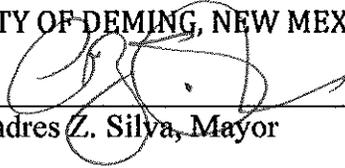
**Whereas**, many afterschool programs across the country are facing funding shortfalls so severe that they are being forced to close their doors and turn off their lights.

**THEREFORE BE IT RESOLVED** that I, Andres Z. Silva, Mayor of the City of Deming, do hereby proclaim October 18, 2012 as "*Lights On Afterschool Day*," AND

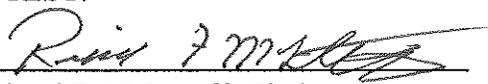
**BE IT FURTHER RESOLVED** that the City of Deming enthusiastically endorses *Lights on Afterschool* and commits our community to engage in innovative afterschool programs and activities that ensure that the lights stay on and the doors stay open for all children after school.

Done this 18<sup>th</sup> day of October, 2012

CITY OF DEMING, NEW MEXICO

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

ATTEST:

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

## PROCLAMATION

National Hospice and Palliative Care Month Proclamation  
November 2012

*Hospice and Palliative Care...living longer with loving care.*

**WHEREAS**, Mimbres Valley Hospice and Ambercare offer the highest quality services and support to patients and family caregivers facing serious and life limiting illness;

**WHEREAS**, Through pain management and symptom control, caregiver training and assistance, and emotional and spiritual support, allowing patients to live fully up until the final moments, surrounded and supported by the faces of loved ones, friends and committed caregivers;

**WHEREAS**, The provision of quality hospice and palliative care reaffirms our belief in the essential dignity of every person, regardless of age, health, or social status, and that every stage of human life deserves to be treated with the utmost respect and care;

**WHEREAS**, Every year more than 1.5 million Americans living with life limiting illness, and their families, received care from the nations hospice programs, including Mimbres Valley Hospice and Ambercare in communities throughout the United States;

**WHEREAS**, More than 468,000 trained volunteers contribute 22 million hours of service to hospice program annually;

**WHEREAS**, Mimbres Valley Hospice and Ambercare are members of the National Hospice and Palliative Care Organization and encourage all people to learn more about the options of care and to share their wishes with family, loved ones and their healthcare professionals.

**NOW THEREFORE, BE IT PROCLAIMED** by the Mayor and Council of the City of Deming, that the month of November shall be known as:

**"NATIONAL HOSPICE/PALLIATIVE CARE MONTH"**

Done this 13<sup>th</sup> day of November, 2012, in the City of Deming, New Mexico.

  
Linda Franklin, Mayor Pro Tem

ATTEST:

  
Richard F. McInturff, Clerk



## American Education Week Proclamation

**WHEREAS**, public schools are the backbone of our democracy, providing young people with the tools they need to maintain our nation's precious values of freedom, civility and equality; and

**WHEREAS**, by equipping young Americans with both practical skills and broader intellectual abilities, schools give them hope for, and access to, a productive future; and

**WHEREAS**, education employees, be they substitute educators, custodians, teachers, bus drivers, or librarians, work tirelessly to serve our children and communities with care and professionalism; and

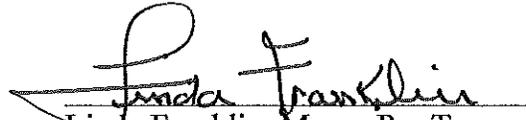
**WHEREAS**, schools encourage community, bringing together adults and children, educators and volunteers, business leaders, and elected officials in a common enterprise.

**NOW, THEREFORE**, I, Linda Franklin, serving as the Mayor Pro Tem of the City of Deming, do hereby proclaim November 11–17 as the 91st annual observance of American Education Week.

Done this 13<sup>th</sup> day of November, 2012, in the City of Deming, New Mexico.

CITY OF DEMING, NEW MEXICO



  
Linda Franklin, Mayor Pro Tem

  
Richard F. McInturff, Clerk

ORDINANCE NO. 12-30

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 8, SECTION 5 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:

Title 1, Chapter 8, Section 5, of the City of Deming Municipal Code is hereby amended by  
inserting the following:

**1-8-5: ADMINISTRATION OF THE PERSONNEL SYSTEM**

C. Exceptions to the Municipal Personnel System

1. The Municipal Judge is responsible for establishing and carrying out policies and  
adopting rules and regulations for the recruitment, hiring, selection, retention, promotion,  
demotion, layoff, discipline and separation and/or discharge of all municipal court  
employees and for complying with all State and Federal laws governing employment.

2. The Municipal Judge may choose to have court employees covered by the same  
personnel policies, ordinances, rules and regulations covering other full-time hourly paid  
municipal personnel as written in the City of Deming Personnel Policy and Procedures  
Manual, but is not required to do so, since the court is a separate branch of municipal  
government.

PASSED, ADOPTED, AND APPROVED, this 13<sup>th</sup> day of November, 2012.

CITY OF DEMING, NEW MEXICO

  
Linda Franklin, Mayor Pro Tem

ATTEST:

  
Richard F. McInturff, Clerk



ORDINANCE NO. 12-31

AN ORDINANCE AMENDING TITLE 9 OF THE DEMING CITY CODE, NEW MEXICO

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

Title 9, Chapter 3, Section 1(C) is hereby by deleting it in its entirety and replacing with the following:

C. Installation of Meter Fees:

1. Water service

Meter Size	< 8" Dia. Main	8" - 12" Main
3/4 inch	\$400.00	\$800.00
1 inch	\$600.00	\$1,000.00
1 1/2 inch	\$800.00	\$1,200.00
2 inch	\$1,200.00	\$1,600.00
3 inch	\$1,800.00	\$2,200.00
4 inch	\$2,200.00	\$2,600.00

2. Fire line tap: Three hundred dollars (\$300.00) per diameter inch.

3. Sewer tap:

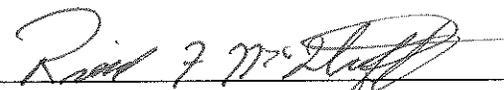
Tap Size	< 10" Dia. Main	10" - 18" Main
4" PVC	\$400.00	\$800.00
6" PVC	\$800.00	\$1,200.00

PASSED, ADOPTED, AND APPROVED, this 13<sup>th</sup> day of November, 2012.

CITY OF DEMING, NEW MEXICO

  
Linda Franklin, Mayor Pro Tem

ATTEST:

  
Richard F. McInturff, City Clerk



ORDINANCE NO. 12-32

**AN ORDINANCE AMENDING TITLE 9 OF THE DEMING CITY CODE, NEW MEXICO**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEMING, NEW MEXICO: Title 9, Chapter 7 is deleted in its entirety and replaced with the following.

**CHAPTER 7**

**WATER, SEWER AND NATURAL GAS CONNECTION REGULATIONS AND FEES**

**9-7-1: SHORT TITLE:** This chapter may be cited as the *CITY OF DEMING WATER, SEWER AND NATURAL GAS CONNECTION REGULATIONS AND FEES ORDINANCE*. (Ord. 1187, 6-8-2009)

**9-7-2: STATUTORY AUTHORITY:** The regulations and fees established by this chapter are created pursuant to the enabling authority set forth in New Mexico Statutes Annotated, 1978, sections 3-18-25, 3-25-1 et seq., 3-26-1 et seq., 3-27-1 et seq., and 3-49-1 et seq. (Ord. 1187, 6-8-2009)

**9-7-3: PURPOSE:** This chapter is adopted to implement fees to connect to any city water and/or sanitary sewer and/or gas service in the project area described in section 9-7-10 of this chapter. The specific purposes of such connections fees are:

- A. To authorize the city to implement a connection fee, plus an administrative fee of five percent (5%), for a connection to any water and/or sanitary sewer and/or gas line in the project area described in section 9-7-10 of this chapter.
- B. In general to allow the city to recoup its construction costs related to the construction of sanitary sewer, water and natural gas lines within its corporate boundaries as well as to the territory occupied by such facilities where such facilities lie outside the city's corporate boundaries.
- C. To provide the city a reserve for the construction of new water, sanitary sewer or gas lines within its corporate boundaries as well as to the territory occupied by such facilities where such facilities lie outside the city's corporate boundaries.
- D. To provide the city a reserve for the replacement or upgrading of water, sanitary sewer and gas systems within its corporate boundaries as well as to the territory occupied by such facilities where such facilities lie outside the city's corporate boundaries. (Ord. 1187, 6-8-2009)

**9-7-4: DEFINITIONS:** For purposes of this chapter, the following definitions shall apply:

**APPLICANT:** A person proposing to connect to the city water system or the city sanitary sewer system or the city gas system and making formal application to the city for such connection.

**CONNECTION FEE:** A onetime charge for a connection to the water or the sanitary sewer or the gas system of the city. The purposes of such fee are to reimburse the city for its construction costs, for replacement costs and for ongoing maintenance of the systems and other related incidental costs.

**DIRECTOR:** The director of public works of the city or his authorized deputy, agent or representative.

**FRONTAGE CHARGE:** A linear foot fee assessed, at the time of application for service connection, for the property frontage parallel with the water, sanitary sewer or gas lines, or any combination of these, which will serve the property. Frontage charges are levied to reimburse the city for its construction costs of such services, for ongoing maintenance and for other related incidental costs.

**PERSON:** An individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau, agency, or any other entity recognized by law as the subject of rights and duties.

**SERVICE CONNECTION:** All water, sanitary sewer and gas service connections for residential, commercial, industrial, or other uses.

**STREET:** A public way that has been dedicated or reserved by plat, which affords the principal means of access to abutting property. For purposes of this chapter, street shall include an alley where such alley contains city water or sanitary sewer or gas lines. (Ord. 1187, 6-8-2009)

**9-7-5: PROHIBITION:** No person shall connect to the water system, the sanitary sewer system or the natural gas system owned by the city until and unless the appropriate application has been made and the appropriate connection fees have been paid. (Ord. 1187, 6-8-2009)

**9-7-6: EXEMPTION:** The city is exempt from paying fees for connections and from all other provisions of this chapter for any water, gas or sanitary sewer service located anywhere in the city. In addition, where any project is undertaken under the provisions of the city of Deming economic development plan ordinance or the provisions of the affordable housing ordinance, the city council may waive the payment of any applicable connection fees. (Ord. 1187, 6-8-2009)

**9-7-7: INTERPRETATION:** All connection fees are calculated on the basis of property frontage. The charge for a service connection is a dollar value per linear foot of frontage as stipulated in section 9-7-10 of this chapter. The fee stipulated in section 9-7-10 of this chapter is the fee to be paid per linear foot of frontage on each side of the street. (Ord. 1187, 6-8-2009)

**9-7-8: APPLICATION FOR SERVICE CONNECTION:** The provisions of sections 9-2-1, 9-4-1 and 9-5-5 of this title, as amended from time to time, shall apply to applications for connection to the city gas system or the city water system or the city sanitary sewer system. (Ord. 1187, 6-8-2009)

**9-7-9: COLLECTION OF SERVICE CONNECTION FEES:** Water and/or sanitary sewer and/or gas connection fees are payable upon the earlier of:

- A. An application for connection to the water, or sanitary sewer or gas systems of the city.
- B. An application for a building permit for development or redevelopment of a parcel of land. (Ord. 1187, 6-8-2009)

**9-7-10: SCHEDULE OF FEES:** The map entitled "legend A" in section 9-7-13 of this chapter, identifies the location of water, sanitary sewer and gas lines described in project A below. Where there is a conflict between the said map and the descriptions in this section, the descriptions set out in this section shall prevail. Any person, unless specifically exempted elsewhere in this chapter, wishing to connect to any water, gas or sanitary sewer service in the project area described in this section shall pay the following service connection fees, which fees include the five percent (5%) administrative charge authorized in subsection 9-7-3A of this chapter, for the respective streets and/or city areas as described below:

A. Cedar Street project (refer to map "legend A" in section 9-7-13 of this chapter for location of utilities described in this subsection):

1. Cedar Street: From 705 Pine Street to 4255 East Pine Street.

Water: Twenty two dollars twenty one cents (\$22.21) per linear foot of frontage per side of street.

Natural gas: Nine dollars seventeen cents (\$9.17) per linear foot of frontage per side of street.

2. Cedar Street: From Deming Del Sol Street to 4255 East Pine Street.

Sanitary sewer: Twenty one dollars sixty eight cents (\$21.68) per linear foot of frontage per side of street.

3. Pine Street: From 3901 East Pine to 4255 East Pine.

Water: Twenty two dollars twenty one cents (\$22.21) per linear foot of frontage per side of street. (Ord. 1187, 6-8-2009)

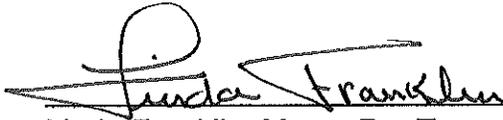
**9-7-11: PENALTY:** Any violation of section 9-7-5 of this chapter is punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both. The city may also disconnect any service that is in violation of section 9-7-5 of this chapter. These penalties are in addition to, and not in lieu of, any other remedy available to the city. (Ord. 1187, 6-8-2009)

**9-7-12: RECORDS:** A record of all payments made, including, but not limited to, the amount paid, the specific services involved, the date of payment, and the specific property to which the payment is attributable, shall be kept by the director, and shall be available for inspection during normal city business hours. (Ord. 1187, 6-8-2009)

**9-7-13: MAP:** Legend "A"

**PASSED, ADOPTED, AND APPROVED, this 13<sup>th</sup> day of November, 2012.**

**CITY OF DEMING, NEW MEXICO**

  
Linda Franklin, Mayor Pro Tem

ATTEST:

  
Richard F. McInturff, Clerk



RESOLUTION NO. 12-39

**AUTHORIZING AND APPROVING TRANSFER OF OWNERSHIP  
FOR THE TULIP LANDFILL FROM THE CITY OF DEMING TO LUNA COUNTY**

**WHEREAS**, Luna County received Brownfields Assessment Cooperative Agreement No. BF00F14001 from the U.S. Environmental Protection Agency to perform Phase I and Phase II Environmental Site Assessments at the Tulip Landfill.

**WHEREAS**, both Phase I and Phase II assessments have been completed and the Site qualifies for FY13 Brownfields Cleanup Grant funding.

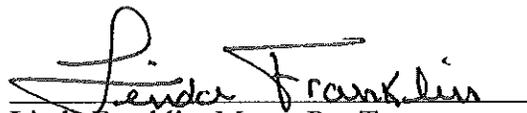
**WHEREAS**, the City of Deming was the owner of the Tulip Landfill when the landfill was in use and is not eligible for Brownfields Cleanup Grant funding.

**WHEREAS**, to be eligible to receive a cleanup grant the applicant must be the sole owner of the site that is the subject of its cleanup grant proposal and must own the site by November 19, 2012.

**NOW THEREFORE BE IT RESOLVED** that the City of Deming City Council affirms that a resolution be passed that affirms the City's intent to transfer ownership of the Tulip Landfill to Luna County for the duration of the Brownfields Cleanup Grant implementation.

**PASSED, APPROVED AND ADOPTED THIS** 13th day of November 2012.

**CITY OF DEMING, NEW MEXICO**

  
Linda Franklin, Mayor Pro Tem

ATTEST:

  
Richard F. McInturff, City Clerk

