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P.O. BOX 706 • DEMING, NEW MEXICO 88031  
POPULATION 14,000

## **CITY COUNCIL**

# ***Special Meeting***

**December 28, 2011**

**9:00 A.M.**

### **AGENDA**

Call to Order / Pledge of Allegiance

1. Public Hearing: To Consider an Ordinance Amending Title 3 Section 1 and Title 3 Section 8 of the Municipal Code Concerning Business Licenses
2. Public Hearing: To Consider an Ordinance Amending Title 1, Chapter 7 and Title 1, Chapter 11 of the Municipal Code Concerning Cost of Living Adjustments for Elected Officials
3. Resolution: To Approve a Partnership and Memorandum of Understanding with MainStreet for a Community Economic Development Downtown Revitalization Program
4. Resolution: To Approve the Abandonment and Subsequent Sale of City Street
5. Resolution: Signature Authorization for Clean Diesel Act Grant Agreement
6. Ratification of a Four-way Stop at the intersection of Spruce St. and 8<sup>th</sup> St.
7. Adjourn Meeting

The next regularly scheduled workshop and meeting is January 9<sup>th</sup>, 2012 commencing at 4:00 p.m. and 6:00 p.m.

**CITY COUNCIL SPECIAL  
MEETING MINUTES  
December 28<sup>th</sup>, 2011**

**Council:** David Sanchez, Councilor  
**Present:** Linda Enis, Councilor

Joe "Butter" Milo, Councilor  
Andres Z. Silva, Mayor

**Absent:** William Shattuck, Mayor Pro Tem

**Staff Present:** Richard F. McInturff, Administrator  
Aaron Sera, Asst. City Administrator  
Edgar Davalos, Fire Chief  
Vicki Engle, HR/Safety Coordinator

Lawrence Brookey, Public Works Director  
Michael Carillo, Police Chief  
Richard Kocab, Asst Treasurer

Mayor Silva led the pledge of allegiance and called the meeting to order at 9:00 a.m.

**1. Public Hearing: To Consider an Ordinance Amending Title 3 Section 1 and Title 3 Section 8 of the Municipal Code Concerning Business Licenses**

Mr. McInturff stated this was a "clean-up amendment" to an outdated ordinance. He stated that the current ordinance specified different types of businesses and assigned different business license fees without any consistency, but in practice, all businesses have been charged the same \$25 annual fee for as long as he has been with the City. Recommended changes to the ordinance include deleting references to specific businesses, a consistent \$25 annual business license fee overall, and incidental changes to wording to make the ordinance more understandable and consistent.

Mayor Silva opened the floor for public comment. There were no public comments. Public comments were closed.

Councilor Enis motioned to accept the ordinance amendment as presented, second by Councilor Sanchez. Motion carried unanimously.

**2. Public Hearing: To Consider an Ordinance Amending Title 1, Chapter 7 and Title 1, Chapter 11 of the Municipal Code Concerning Cost of Living Adjustments for Elected Officials**

Referencing his email dated December 7, 2011 and attachments distributed, Mr. McInturff indicated it had been about four and a half years since a cost of living increase had been authorized for the elected officials. Reviewing the information distributed and the possible effect to budget, Mr. McInturff recommended a 10% Cost of Living increase be approved for Mayor, Council and Municipal Judge. Mr. McInturff stated any increase passed would not take effect until the current term of individual elected officials would expire and a new election or appointment for the position held. Two Councilors and the Judge positions up for election

in 2012 would go into effect in March 2012, along with the designation of Mayor Pro-tem, the Mayor and remaining two Councilors would be effected March of 2014.

Discussion was held among the Mayor and Councilors, including the Municipal Judge salary and hours, current economic conditions, business owner considerations, looking at positions rather than at the incumbents currently doing the job, and pay comparisons with other similarly sized communities and Luna County.

Mayor Silva opened the floor for public comments. Comments made by Rick Kocab, Michael Carillo, Edgar Davalos and Mr. McInturff, were positive and in favor of the cost of living increase for all elected officials. No other comments were received. Public comments were closed.

Additional discussion was held among the Mayor and Councilors.

Councilor Milo motioned to accept the cost of living adjustment ordinance amendment of 10%, second by Councilor Sanchez. Motion carried unanimously.

**3. Resolution: To Approve a Partnership and Memorandum of Understanding with MainStreet for a Community Economic Development Downtown Revitalization Program**

Aaron Sera stated this was a Resolution of Support by the City for the Deming MainStreet organization, to Partner in a Community Economic Development Downtown Revitalization Program. He read the entire Resolution and referenced the attached Memorandum of Understanding. Mr. Sera stated the resolution and MOU would assist the Deming MainStreet organization to upgrade their status to a 'Start Up Community' which would allow access to additional funding and resources not available otherwise. He stated the organization would provide quarterly financial and status reports to the City.

Councilor Enis stated that she knows, in the past, there have been reporting issues with the local MainStreet organization and that she wanted more frequent accountability. She suggested the MOU state the organization would provide monthly status and financial accountability reports to the Council. Mr. Sera stated he could change the language to reflect this request. Councilor Enis also asked that the new Director of Deming MainStreet be asked to come to Council and share his vision for the Program. Mr. Sera stated he would make the recommendation to the MainStreet organization.

Councilor Enis motioned to accept the recommendation, changing the quarterly reporting statement in the MOU, to monthly status and financial reporting to Council, second by Councilor Milo. Motion carried unanimously.

**4. Resolution: To Approve the Abandonment and Subsequent Sale of City Street**

Mr. McInturff reminded the Council that 12<sup>th</sup> Street, between Spruce and Hemlock streets, had been approved for abandonment and subsequent sale by Council action on October 11, 2010. He reviewed presented documents with Council. Mr. McInturff stated this resolution was prepared to formally evidence the abandonment of this section of 12<sup>th</sup> Street for County Clerk recording purposes.

Mayor Silva asked about easements. Mr. McInturff stated all easements were reserved.

Councilor Milo motioned to accept the resolution as presented, second by Councilor Sanchez. Motion carried unanimously.

**5. Resolution: Signature Authorization for Clean Diesel Act Grant Agreement**

Mr. Sera read the proposed resolution in its entirety. Mr. Sera indicated the City would receive \$70,000 in grant funding for the purchase of a backhoe. He indicated the proper administration of this grant may lead to larger future grants through the New Mexico Environment Department program for eligible projects.

Councilor Enis motioned to accept the resolution as presented, second by Councilor Sanchez. Motion carried unanimously.

**6. Ratification of a Four-way Stop at the intersection of Spruce St. and 8<sup>th</sup> St.**

Aaron Sera reviewed his 12/28/11 memo in its entirety, regarding the request for approval of a four-way stop at this intersection. He stated the intersection has had eleven accidents in the past three years. Mr. Sera stated larger signs have been ordered and will be put in place upon receipt, along with warning signs prior to the intersection. In the meantime, barrels have been placed and the Police department is patrolling the area to slow the traffic down. Discussion was held regarding the cement wall that is located at the corner. Mr. McInturff stated there are some historical concerns that are being worked out with the Historical Society.

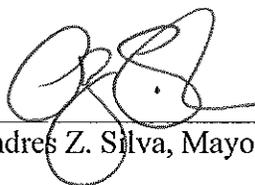
Councilor Sanchez motioned to accept the recommendation, second by Councilor Enis. Motion carried unanimously.

**7. Adjourn Meeting**

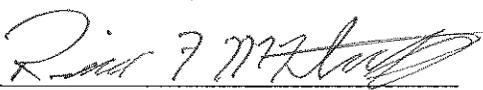
With no further business to conduct, Councilor Milo motioned to adjourn the meeting at 10:15 a.m. seconded by Councilor Sanchez, carried unanimously.

The next regularly scheduled workshop/meeting is January 9<sup>th</sup>, 2012 commencing at 4:00 p.m. & regularly scheduled council meeting commencing at 6:00 p.m.

CITY OF DEMING, NEW MEXICO

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

ATTEST:

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

ORDINANCE NO. 1217

**AN ORDINANCE AMENDING TITLE 3, CHAPTER 1 "GENERAL LICENSES" AND TITLE 3, CHAPTER 8 "PAWNBROKERS" OF THE MUNICIPAL CODE OF THE CITY OF DEMING, NEW MEXICO**

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

1. Title 3, Chapter 1 "General Licenses" of the City of Deming Municipal Code is hereby amended by deleting sections 3-1-1 thru 3-1-6 in its entirety and replace with the following:

**3-1-1: APPLICATION FOR BUSINESS LICENSE REGISTRATION:**

- A. Application; Payment of Fee: Any person proposing to engage in business within city limits shall apply for and pay a business license registration fee for each outlet, branch or location within the city limits prior to engaging in business.
- B. Annual Renewal: During the month of January each year, any person engaging in business within the city, and subject to this chapter, shall apply or renew their business license registration with the city clerk.
- C. Tax Identification Number: Any person filing an application for issuance of business license registration shall include in the application their current revenue division taxpayer identification number or evidence of application for a current revenue division taxpayer identification number. Any change in revenue division taxpayer identification assigned numbers shall be reported to the city clerk.

**3-1-2: BUSINESS LICENSE REGISTRATION FEES:**

- A. Fee Imposed:
  1. There is imposed on each place of business conducted in the city a business registration fee of twenty five dollars (\$25.00). The fee is imposed pursuant of New Mexico Statutes Annotated section 3-38-3 as it now exists or is amended and shall be known as the "business license registration fee".
  2. The business license registration fee may not be prorated for business conducted for a portion of the year.

**3-1-3 ISSUANCE OF RECEIPTS:**

- A. All business license registration fees imposed and provided for in this chapter shall be paid in advance to the city clerk and when any business license registration fee is paid to the city clerk, it shall be their duty to issue, sign and deliver to the person paying such a tax, a proper receipt therefore.

**3-1-4 RECOVATION OF BUSINESS LICENSE REGISTRATION FEE:**

**A. Cause For Revocation:**

1. In any case where a person is required to obtain a business license registration as provided in this chapter and has violated any of the provisions of this chapter or any other city ordinance relating thereto, or whenever, in the judgment of the city administrator or designee the public welfare shall require it, any license issue to such a person by the city be revoked.

2. If a business has a red tag, and the building is deemed hazardous to the health, safety, and welfare of the occupant or the community, business shall not be conducted during the appeal process unless and until the public hazard has been eliminated from the premises.

**B. Notice; Hearing:** No such business license registration shall be revoked until the city administrator notifies the holder in writing that the revocation is pending and will become final in thirty (30) days, unless said revocation is stayed by filing a request for a hearing with the city administrator to appeal the decision. The city council will act as the board for hearing such business license registration hearing appeals. If no appeal request is filed within the thirty (30) day notification period, the revocation decision shall become final.

**3-1-5 PENALTY:**

**A.** Any person violating the provisions of this chapter shall, upon conviction, be punished as provided in section 1-4-1 of this code.

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

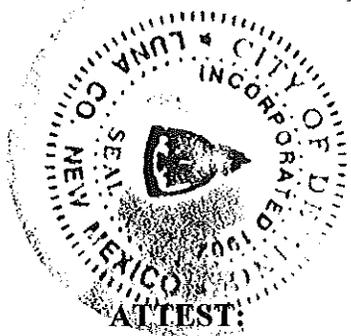
2. Title 3, Chapter 8 of the City of Deming Municipal Code is hereby amended by deleting section 3-8-1A in its entirety and replacing with the following:

**3-8-1: BUSINESS LICENSE REGISTRATION AND BOND REQUIRED:**

**A. Business License Registration Fee Required:** No pawnbroker whose business is to trade or receive by way of pledge or pawn any kind of personal property as security for the repayment of money loaned or advanced shall engage in business within the city without having paid the required business license registration fee under section 3-1-2 of this title, and having obtained the bond required below.

PASSED, ADOPTED, AND APPROVED, this 28<sup>th</sup> Day of December, 2011.

CITY COUNCIL, CITY OF DEMING, NEW MEXICO



Andres Z. Silva, Mayor

Richard F. McInturff, Deputy Clerk

ORDINANCE NO. 1218

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 7 "CITY OFFICERS AND EMPLOYEES",  
TITLE 1 CHAPTER 11 "MUNICIPAL COURT" PERTAINING TO A COST OF LIVING  
ADJUSTMENT TO ELECTED OFFICIAL'S COMPENSATION 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 7 "City Officers and Employees" of the City of Deming Municipal  
Code is hereby amended section 1-7-3 to reflect the following:**

**1-7-3: SALARIES:**

- A. Mayor: Effective for Mayoral elections and appointments to fill a vacancy after December 28, 2011, the mayor shall receive the sum of nine hundred sixty-two dollars and fifty cents (\$962.50) per month as compensation.
- B. City Council And Mayor Pro Tem: Any city council member elected or appointed to fill a vacancy after December 28, 2011 shall receive as compensation the sum of five hundred seventy-seven dollars and fifty cents (\$577.50) per month. Any Council member designated by council as mayor pro tem after December 28, 2011, shall receive compensation of six hundred sixty dollars (\$660.00).

**Title 1, Chapter 11 "Municipal Courts" of the City of Deming Municipal Code is  
hereby amended section 1-11-2 (C) to reflect the following:**

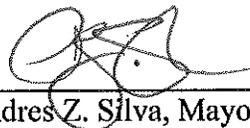
**1-11-2: QUALIFICATIONS; BOND; COURT SESSIONS:**

C. Compensation of Elected Judge And Temporary Judge:

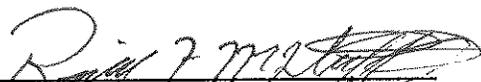
- 1. Salary: For the Municipal Judges elected or appointed to fill a vacancy after December 28, 2011, the judge shall receive as salary the sum of sixteen thousand five hundred dollars (\$16,500.00) annually for up to a minimum of fifteen (15) hours worked per week and twenty-one dollars and fifteen cents (\$21.15) for all hours over fifteen (15) hours per week with a limit of forty (40) hours per week. Should any temporary municipal judge be appointed, as hereinafter provided, then such temporary judge shall receive as compensation during the time the municipal judge is absent from his duties for a period of less than five (5) days, the sum of one hundred seventy five dollars (\$175.00) per day for a total of two (2) days per week, and during the time the municipal judge is absent from his duties for a period of more than five (5) days, the temporary judge shall receive the sum of one hundred dollars (\$100.00) per day.

PASSED, ADOPTED, AND APPROVED, this 28<sup>th</sup> Day of December, 2011.

CITY COUNCIL, CITY OF DEMING, NEW MEXICO



Andres Z. Silva, Mayor



Richard F. McInturff, Deputy Clerk

RESOLUTION NO. 11-36

**A RESOLUTION OF SUPPORT BY THE MUNICIPALITY AS PARTNER WITH THE  
DEMING MAINSTREET TO PARTNER IN A COMMUNITY ECONOMIC  
DEVELOPMENT DOWNTOWN REVITALIZATION PROGRAM**

**WHEREAS**, the New Mexico MainStreet Program is part of the new Mexico Economic Development Department offering technical assistance and services to affiliated local MainStreet Organization, and

**WHEREAS**, the New Mexico MainStreet Program requires a resolution of support from the municipality to accompany a biennial MOU between New Mexico MainStreet Organization, and

**WHEREAS**, the municipality wishes to continue downtown revitalization as part of its community economic efforts, and

**WHEREAS**, the MainStreet Four Point Approach is a known successful process nationally with more that 25 years of demonstrable progress in over 1800 communities across the country, and

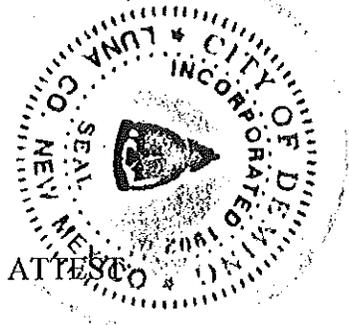
**WHEREAS**, the downtown is a unique place of character and commerce for the municipality and its residents and visitors, and

**WHEREAS**, the municipality wished to economically benefit from a strong and vibrant downtown economy.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY  
DEMING, COUNTY OF LUNA, STATE OF NEW MEXICO, THAT:**

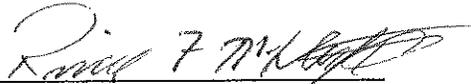
1. The City of Deming supports and will collaborate with Deming MainStreet Project in the vision, principles and values of comprehensive commercial district revitalization through the National Trust Main Street Center's Four Point Approach, and
2. The City of Deming will continue to provide financial assistance to the Deming MainStreet Project to accomplish community economic development in the downtown which benefits all the residents of the community, and
3. The City of Deming will act as fiscal agent for any capital outlay funds received from the state of federal governments and their agencies as agreed upon between the City MainStreet Project and the City and
4. The City of Deming will pledge support of \$15,000 annually for two years with the Deming MainStreet Project to work on the City's behalf in community economic development efforts downtown. (The county of Luna is expected to also pledge support of \$15,000 annually for 2 years.)
5. The City Authorizes the Mayor and/or the Assistant City Administrator to execute all documents including grant applications and accepting grant offers related to the program and direct staff to take other actions necessary to implement this Resolution and program.

PASSED, APPROVED AND ADOPTED THIS 28th day of December, 2011



CITY OF DEMING, NEW MEXICO

  
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Andres Z. Silva, Mayor

  
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Richard F. McInturff, Deputy Clerk

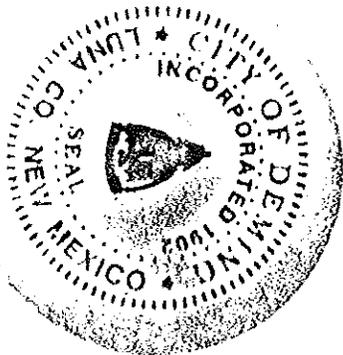
**CITY OF DEMING, NEW MEXICO**  
**RESOLUTION NO. 11-37**  
**ABANDONMENT AND SUBSEQUENT SALE OF CITY STREET**

*WHEREAS*, a portion of 12<sup>th</sup> Street, between Spruce Street and Hemlock Street, is to be abandoned, and

*WHEREAS*, subsequent sale of the portion of 12<sup>th</sup> St. to Tara Mart be initiated.

*IT IS, THEREFORE, RESOLVED* that the portion of 12<sup>th</sup> Street, more particularly described in Exhibit A, which is incorporated and made a part of this resolution, is hereby abandoned and sold to a third party at appraised value.

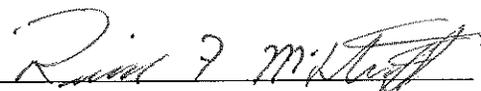
PASSED, ADOPTED AND APPROVED this 28<sup>th</sup> day of December, 2011.



CITY OF DEMING, NEW MEXICO

By:   
Andres Z. Silva, Mayor

ATTEST:

  
Richard F. McInturff, Deputy Clerk



LUNA COUNTY-NM  
KAREN SHYER, CLERK  
201200063  
1 of 2  
01/06/2012 10:01:18 AM  
BY ANDREA

EXHIBIT "A"

DESCRIPTION: That portion of 12<sup>th</sup> Street bounded on the south by Hemlock Street and on the north by Spruce Street, located between Blocks "BH" and "BC" of the Amended Orr Addition to the City of Deming, according to the Plat thereof on file in the office of the County Clerk in Deming, Luna County, New Mexico, more particularly described as follows:

BEGINNING at the Southeast corner of Lot 12 of said Block "BH", which point is also the Southwest corner of the tract of land described herein;  
THENCE N00°02'28"E a distance of 300.00 feet to the Northeast corner of Lot 1 of said Block "BH" and which point is also the Northwest corner of this tract;  
THENCE S89°56'59"E a distance of 80.00 feet to the Northwest corner of Lot 24 of said Block "BC" and which point is also the Northeast corner of this tract;  
THENCE S00°02'28"W a distance of 300.00 feet to the Southwest corner of Lot 13 of said Block "BC" and which point is also the Southeast corner of this tract;  
THENCE N89°56'59"W a distance of 80.00 feet to the point of beginning.  
This tract of land contains 24,000 square feet, more or less.

LUNA COUNTY-NM  
KAREN SHYER, CLERK  
201200063  
2 of 2  
01/05/2012 10:01:18 AM  
BY ANDREA

RESOLUTION NO. 11-38

AUTHORIZING AND APPROVING SIGNATURE AUTHORITY  
FOR A CLEAN DIESEL PROJECT  
FROM THE NEW MEXICO ENVIRONMENT DEPARTMENT  
AIR QUALITY BUREAU

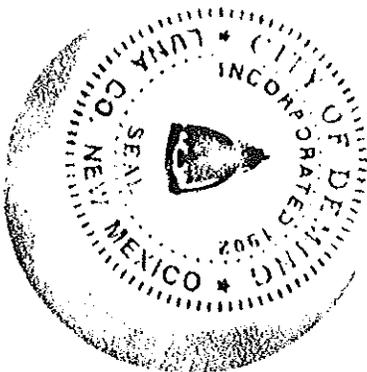
WHEREAS, NMED received a one-time Diesel Emissions Reduction Act ("DERA") federal grant from the U.S. Environmental Protection Agency ("EPA") for the purpose of reducing diesel engine emissions;

WHEREAS, based upon the criteria established within the scope of work of the Agreement, the City of Deming has a qualified program for the diesel emissions reduction retrofit project;

WHEREAS, the City of Deming has agreed to use the grant funds for the purchase and installation of EPA/CARB verified/certified retrofit equipment for a vehicle in its Public Works Department in order to reduce emissions generated from diesel-fueled vehicles;

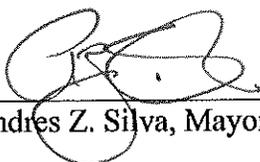
NOW THEREFORE, BE IT RESOLVED, that the Governing Body of the City of Deming hereby adopts and approves this Resolution authorizing Aaron Sera, Assistant City Administrator to submit any documents pertaining to the project. Andres Z. Silva, Mayor or Aaron Sera, Assistant City Administrator are granted signatory authority for the GRANTEE pursuant to the official resolution are also listed in Article 23 of the Grant Agreement.

PASSED, ADOPTED AND APPROVED this 28<sup>th</sup> day of December, 2011.

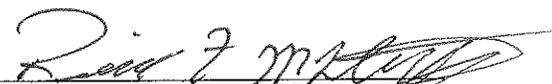


(Seal)

CITY OF DEMING, NEW MEXICO

By:   
Andres Z. Silva, Mayor

ATTEST:

  
Richard F. McInturff, Deputy Clerk