



BENNY L. JASSO, MAYOR

AARON SERA, ADMINISTRATOR

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POPULATION 14,000

## CITY COUNCIL MEETING AGENDA February 16, 2021 5:30 P.M.

*Due to the COVID-19 pandemic and in compliance to the State of New Mexico Open Meetings Act, the Governing Body will be meeting remotely via GoToMeeting.com with the following credentials:*

**You may dial in 10-15 minutes before the meeting begins.**

**Please join the meeting from your computer, tablet or smartphone.**

<https://www.gotomeet.me/CityofDeming>

**or**

**You can also dial in using your phone.**

United States (Toll Free): [1 866 899 4679](tel:18668994679)

United States: [+1 \(312\) 757-3119](tel:+13127573119)

**Access Code: 595-334-189**

**Password: 595334189**

### CALL TO ORDER/PLEDGE OF ALLEGIANCE/ATTENDANCE ROLL CALL

1. Consent Agenda
  - A. Minutes – City Council Meeting 1/19/2021
  - B. Minutes – Parks Commission 1/12/2021
2. Public Forum
3. Ratification of Appointment to the City Labor Management Relations Board
4. AR DM-21-36 An Administrative Regulation Governing Off Duty DWI/DUI Offenses
5. Resolution: To Authorize and Approve the Submission of Two Completed Applications for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Authority for the Colonias Infrastructure Fund – Butterfield Trail Regional Landfill Cell 2A Expansion and Encanto Circle Water Line Replacement Phase II
6. Resolution: In Opposition of House Bill 200
7. Public Hearing: To Consider the Amendment of Title 4, Chapter 6 of the Municipal Code
8. Closed Session: To Discuss personnel matters, regarding an employment contract for an Appointed Position, and the Sale of Water Rights, pursuant to NMSA 1978 Section 10-15-1(H)(2), and (8) of the Open Meetings Act
9. Administrator's Report
10. Adjourn Meeting

*The next regular City Council Meeting is scheduled for March 16, 2021 at 5:30 p.m.*

# CITY COUNCIL MEETING MINUTES

**February 16, 2021**

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

**Council Present:**

Benny L. Jasso, Mayor  
Joe "Butter Milo, Mayor Pro Tem

Dr. Victor Cruz, Councilor

**Council Present (Telephonically):** David L. Sanchez, Councilor

**Council/Staff Absent:** Irmaisela "Irma" A. Rodriguez, Councilor

**Staff Present:** Aaron Sera, Administrator

**Staff Present (Telephonically):**

Alexi Jackson, Community Svcs. Director  
Laura Holguin, Finance Director  
Lila Jasso, Assistant Deputy Clerk

Jim Massengill, Public Works Director  
Alex Valdespino, Chief of Police  
Joe Owen, Battalion Fire Chief

**Guests (Telephonically):** Debbie Troyer, Christie Ann Harvey, Penny Utley, Chelsea Evans,

**Recording Secretary:** Mary Jo Valdez, Municipal Clerk

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

A quorum was verified and determined by the following roll call:

Ms. Valdez stated for the record that Councilor Rodriguez would be absent for today's meeting.

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |
| Mayor Jasso        | Aye |

Staff telephoned Councilor Sanchez, upon contact Councilor Sanchez dialed in for the meeting.

**ROLL CALL VOTE RESUMED**

|                   |     |
|-------------------|-----|
| Councilor Sanchez | Aye |
|-------------------|-----|

Mayor Jasso held a moment of silence for the deaths caused by Covid-19, expressing the City's condolences to the families affected.

**1. Consent Agenda**

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

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

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |
| Councilor Sanchez  | Aye |

**2. Public Forum**

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

Ms. Harvey informed Council on MainStreet operations.

There were no further comments from the public during the public forum.

Mayor Jasso closed the public forum.

**3. Ratification of Appointment to the City Labor Management Relations Board**

Mr. Sera stated that the Union Representative and City Representative, previously ratified by City Council have met and have selected Michelle Apodaca as the third neutral party. Mr. Sera stated that Ms. Apodaca has served on the board and is interested in continuing to serve; and asked for City Council's ratification of the appointment.

Councilor Cruz motioned to ratify the appointment of Michelle Apodaca to the Labor Management Relations Board; the motion second by Mayor Pro Tem Milo; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Councilor Sanchez  | Aye |
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |

**4. AR DM-21-36 An Administrative Regulation Governing Off Duty DWI/DUI Offenses**

Mr. Sera presented the administrative regulation stating that Mayor Jasso inquired whether the City had a policy in place pertaining to off duty DWI/DUI offenses. Mr. Sera added that NMML was working with other municipalities to establish standardized policies between all municipalities to also align with NM Self Insured's Fund (NMSIF).

Mr. Sera stated that the City currently did not have a policy pertaining to off duty DWI/DUI offenses to address the issue. Mr. Sera added that the issue with not having a policy and an employee should acquire two DWI's the NMSIF would not cover that employee to allow the operation of a City vehicle. Mr. Sera stated that there is a policy stating that an employee cannot work for the City without a valid driver's license; Mr. Sera added that there could be an issue in the event that an employee had a provisional license after a first DWI offense, which is valid, but only allows for operation with an interlock device. Mr. Sera stated that after a second offense within a five year period, NMSIF would no longer cover the employee and the City would not be able to employ them.

Mayor Pro Tem Milo asked if there was a policy in place to address on duty offenses. Mr. Sera stated that there is. Mr. Sera stated that there is a policy which states that those without a valid license cannot attain employment with the City; adding that a conditional license to use an interlock, is a valid driver's license that can be proved in a court of law. Mr. Sera stated that this does not match current policy. Mr. Sera stated as an example, if an employee who drives a trash truck has a conditional license for the requirement of an interlock, it would be unreasonable to install one in a City vehicle; however, if an employee who is able to ride with another employee to a jobsite could be reasonably accommodated.

Councilor Cruz added that the State of New Mexico is ranked in the top 3 for DWI's in the Country. Councilor Cruz stated that over half are related to alcohol and drug use.

Mayor Jasso asked Council if they were prepared to make a motion.

Mayor Pro Tem Milo motioned to approve AR DM21-36 An Administrative Regulation Governing Off Duty DWI/DUI Offenswes; the motion second by Councilor Cruz; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Councilor Sanchez  | Aye |
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |

**5. Resolution: To Authorize and Approve the Submission of Two Completed Applications for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Authority for the Colonias Infrastructure Fund – Butterfield Trail Regional Landfill Cell 2A Expansion and Encanto Circle Water Line Replacement Phase II**

Mr. Massengill presented the resolution explaining that the Butterfield Trail project is moving forward to the next phase and hope to get funds to complete it. Mr. Massengill stated that it is a pretty good sized cell expansion which will include work adjacent to the first cell which is approx.. 50 ft. high and will require a lot of dirt to be moved. Mr. Massengill stated that staff is working on separate cell which will use in-house funds.

Mr. Massengill stated that the second project is the Encanto Circle Phase II. He stated that Phase I has been completed which gives the City a good chance of being funded for Phase II which will allow for 3000 ft of water line. He added that entities who have completed a Phase 1 are normally favored to be granted more funds.

Mr. Massengill highlighted some items in the resolution stating that the City is authorized to borrow funds, undertake construction of the two projects, and that local matches are identified in the application, and that the City agrees to pay any costs that exceed the project amount.

Mayor Jasso asked Council if they were prepared to make a motion.

Mayor Pro Tem Milo motioned to approve the resolution to authorize and approve the submission of two completed applications for financial assistance and project approval to the New Mexico Finance Authority for the Authority for the Colonias Infrastructure Fund- Butterfield Trail Regional Landfill Cell 2A Expansion and Encanto Circle Water Line Replacement Phase II; the motion second by Councilor Cruz; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |
| Councilor Sanchez  | Aye |

**6. Resolution: In Opposition of House Bill 200**

Mr. Sera addressed Council stating that the resolution is to oppose House Bill 200. The Bill would only allow the ISC and the Water Trust Board to work together, removing the New Mexico CAP Entity's intent to participate in the decision-making process.

Mr. Sera stated that the Bill has an unfair advantage and asks for Council's approval; adding that he will send the resolution, if approved to the committee members and sponsors of the Bill in hopes of stopping the House Bill.

Mayor Pro Tem Milo asked if anything has been done to determine what happens with the water. Mr. Sera stated that there should have been a decision by December 2020 to proceed, which was not done. Mr. Sera stated that there is a lot of money which can be used for water conservation, water purification and water line replacements; adding that if the Water Trust Board decides where the money goes we wont see it.

Mayor Pro Tem Milo asked who comprised the Water Trust Board. Mr. Sera stated that it is comprised of 6 members appointed by the Governor, who is highly opposed to the Arizona Water Settlement.

Councilor Cruz asked if there is a plan that the CAP Entity has to do anything. Mr. Sera stated that the CAP Entity is working to develop criteria to apply for the funding to do water conservation and conveyance projects; adding that there are 13 earth diversions on the river, itself. Mr. Sera stated that they're trying to figure out how to build a structure to divert the water. Mr. Sera stated that they will also work on a water plan.

Councilor Sanchez asked if the water would ever be moved to the Mimbres Basin. Mr. Sera stated that it would probably not. Mr. Sera stated that he and Mr. Massengill have been working on conservation and purifying effluent water to be reused, and on fixing water leakage issues.

With no further discussion, Mayor Jasso asked for Council's decision.

Councilor Cruz motioned to approve resolution in opposition of New Mexico House Bill 200 as presented; Mayor Pro Tem Milo second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Councilor Sanchez  | Aye |
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |

**7. Public Hearing: To Consider the Amendment of Title 4, Chapter 6 of the Municipal Code**

Mayor Jasso conducted a public hearing to consider the amendment of Title 4, Chapter 6 of the Municipal Code.

Mr. Sera presented the amendment stating that during the pandemic, to reduce possible exposure by citizens using their own bags from home, it would be allowed for retail establishments to use plastic bags that are at least 2 mil in thickness or paper bags.

Mayor Jasso opened the public hearing for public comments.

Ms. Christie Ann Harvey asked for a clarification of whether the plastic bags had to be a thickness of 2 mil or a paper bag. Mr. Sera stated that section 4-6-5 can be changed to include paper bags if Council recommends the change and approval of the ordinance.

Councilor Cruz stated that he is in favor of either or 2 mil bags or paper bags. Mr. Sera stated that "paper bags" language would be added in Section 4-6-5.

With no further discussion, Mayor Jasso closed the public hearing and asked for Council's decision.

Mayor Pro Tem Milo motioned to the amendment of Title 4, Chapter 6; Councilor Cruz second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Councilor Sanchez  | Aye |
| Councilor Cruz     | Aye |
| Mayor Pro Tem Milo | Aye |

**8. Closed Session: To Discuss personnel matters, regarding an employment contract for an Appointed Position, and the Sale of Water Rights, pursuant to NMSA 1978 Section 10-15-1(H)(2), and (8) of the Open Meetings Act**

Mayor Jasso asked for Council's motion to go into closed session to discuss personnel matters, regarding an employment contract for an Appointed Position, and the Sale of Water Rights.

Mr. Sera stated that those in virtual attendance may stay logged and that video and audio would both be deactivated until Council is ready to go back into open session.

Mayor Pro Tem Milo motioned to go into closed session To Discuss personnel matters, regarding an employment contract for an Appointed Position, and the Sale of Water Rights, pursuant to NMSA 1978 Section 10-15-1(H)(2), and (8) of the Open Meetings Act; Councilor Cruz second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Councilor Sanchez  | Aye |
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |

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

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Councilor Cruz     | Aye |
| Councilor Sanchez  | Aye |
| Mayor Pro Tem Milo | Aye |

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

Councilor Cruz motioned to approve the sale of 15 acre feet of water rights to JW Donaldson contingent on the Office of the State Engineer's approval of transfer, Mayor Pro Tem Milo second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Councilor Sanchez  | Aye |
| Mayor Pro Tem Milo | Aye |
| Councilor Cruz     | Aye |

Mayor Jasso respectfully requested Council's approval to appoint Joe Owen to serve as the City of Deming's Fire Chief; to allow staff to hire an Assistant Fire Chief by contract; to allow the negotiation of the employment contract for the Fire Chief to be effective February 17, 2021.

Councilor Sanchez motioned to approve the Mayor's appointment and his request, motion second by Councilor Cruz; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

|                    |     |
|--------------------|-----|
| Mayor Pro Tem Milo | Aye |
| Councilor Sanchez  | Aye |
| Councilor Cruz     | Aye |

**9. Administrator's Report**

Mr. Sera addressed Council reporting on the following items.

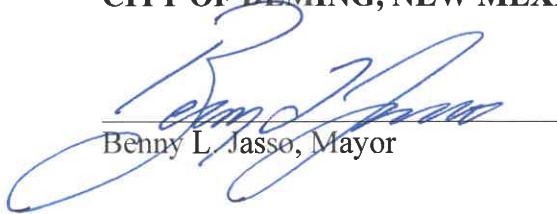
- Legislative session is progressing, stating that there are many Bills that have a huge impact on the City.
  - Mr. Sera has spoken to Mr. Fulginiti, lobbyist, about HB 108, in relation to the increase of landfill fees to come up with a happy-medium to charge in increments instead of a huge one-time cost.
  - Mr. Sera stated that HB 4, in relation to Civil Rights will have a huge impact on police officers as well as public employees. Mr. Sera stated that there was initially no cap on the amount in which employees can be sued for but have negotiated to have a \$2 million cap. Mr. Sera stated that the Academy for training police officers should provide training to try and educate about Civil Rights.
- Covid-19 Luna is doing better from 7.2% positive rate but that needs to be under 5% to change from red to yellow; adding that the public is encouraged to get vaccinated and tested.
- HB 376 will have an effect on the City's insurance premium as it increases the tort claim act from 1 million to 3 million.
- He and Mrs. Holguin are considering what may impact the City's budget; and that preliminary discussion is ongoing on items such as the minimum wage increase which will require an adjustment in the pay scale, stating that it is being looked at; union negotiations will also have an impact on the budget. Recreational marijuana bill has passed the first committee, so that may increase revenue.
- Migrant aid will happen, adding that he is trying to have Luna County bypassed sending migrants to Las Cruces and El Paso, using Luna County as an emergency shelter only.



**10. Adjourn Meeting**

With no further business to discuss, Mayor Jasso entertained a motion to adjourn the meeting. Councilor Cruz motioned to adjourn the meeting; Councilor Milo second the motion; motion carried unanimously. The meeting adjourned at 7:11 p.m.

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

ATTEST:

  
Mary Jo Valdez, Municipal Clerk

**AR DM 21-36**  
**AN ADMINISTRATIVE REGULATION GOVERNING**  
**COMPLIANCE OF OFF DUTY DWI/DUI OFFENSES**

**SECTION ONE: Compliance**

All employees will be subject to comply with state and federal regulations regarding employment upon conviction of DWI/DUI.

**SECTION TWO: City Representation / Driving Privileges - Uninsurability**

*REGULAR EMPLOYEES:*

Employees, if not in violation of a collective bargaining agreement, who receive a second or subsequent DWI/DUI Offense within five (5) years of the beginning of the current fiscal year are not insurable through the City of Deming. This means an employee cannot drive a City vehicle nor drive a personal vehicle on City time or to represent the City in any capacity.

*NEW EMPLOYEES:*

Employees, if not in violation of a collective bargaining agreement, hired after the beginning of the fiscal year are not insurable if they have a second or subsequent DWI/DUI conviction within five (5) years of the date of hire. This means an employee cannot drive a City of Deming vehicle nor drive a personal vehicle on City time or to represent the City in any capacity.

**SECTION THREE: Non-Compliance or Violations**

If the employee has a position that requires a valid NM driver's license and the City Administrator is not able to modify the job in order that the employee not be required to drive, this may result in disciplinary action, the option for the employee to resign, and up to termination.

Approved:



Aaron Sera, Administrator

2-23-21

Date

Ratification by City Council 02/16/2021

**CITY OF DEMING, NEW MEXICO**  
**RESOLUTION NO. 21-08**

**AUTHORIZING AND APPROVING SUBMISSION OF TWO COMPLETED APPLICATIONS  
FOR FINANCIAL ASSISTANCE AND PROJECTS APPROVAL TO THE NEW MEXICO  
FINANCE AUTHORITY FOR THE COLONIAS INFRASTRUCTURE FUND – BUTTERFIELD  
TRAIL REGIONAL LANDFILL CELL 2A EXPANSION AND ENCANTO CIRCLE WATER  
LINE REPLACEMENT PHASE II**

**WHEREAS**, the City of Deming ("Governmental Unit and Governing Body") is a qualified entity under the New Mexico Finance Authority Colonias Infrastructure Act, Sections 6-30-1 through 6-30-8, NMSA 1978 ("Act"), and the City of Deming is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Governmental Unit; and

**WHEREAS**, the New Mexico Finance Authority ("Authority") has instituted a program for financing of projects from the Colonias Infrastructure fund created under the Act and has developed an application procedure whereby the Governing Body may submit an application ("Application") for financial assistance from the Authority for public projects; and

**WHEREAS**, the Governing Body intends to undertake construction of 1) Butterfield Trail Regional Landfill Cell 2A Expansion , 2) Encanto Circle Water Line Replacement Phase II ("Projects") for the benefit of the Governmental Unit and its citizens; and

**WHEREAS**, the applications prescribed by the Authority will be submitted by the Governing Body and this resolution approves submission of the completed Applications to the Authority for its consideration and review as required as part of the Applications; and

**WHEREAS**, the City of Deming acknowledges the local match identified in the application, is committed to the project and agrees to pay any costs that exceed the project amount if the application is selected for funding.

**NOW THEREFORE, BE IT RESOLVED** by the governing body of the City of Deming:

Section 1. That all action (not consistent with the provision hereof) heretofore taken by the Governing body and the officers and employees thereof directed toward the Applications and the Projects, be and the same is hereby ratified, approved and confirmed.

Section 2. That the completed Applications submitted by the Governing Body, be and the same is hereby approved and confirmed.

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed Applications to the Authority for its review, and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the Applications and to further proceed with arrangements for financing the Projects.


Section 4. All acts and resolutions in conflict with this resolution are hereby rescinded, annulled and repealed.

Section 5. This resolution shall take effect immediately upon its adoption.

**PASSED, APPROVED, AND ADOPTED** this 16<sup>th</sup> day of February 2021.

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

  
ATTEST:  
  
Mary Jo Valdez, Municipal Clerk

**New Mexico CAP Entity**  
**Resolution 21-09**  
**Opposition to New Mexico House Bill 200 (HB200)**

**Whereas,** The New Mexico CAP Entity is comprised of 14 regional members including the Counties of Catron, Grant, Luna, and Hidalgo, the Cities of Deming, Lordsburg, the Village of Santa Clara and other parties recognized by the State of New Mexico as political subdivisions: the Hidalgo Soil & Water Conservation District, the San Francisco Soil & Water Conservation District, the Grant Soil & Water Conservation District, the Upper Gila Irrigation Association, the Fort West Irrigation Association, the Gila Farm Irrigation Association, the Gila Hot Springs Irrigation Association, and also includes the Interstate Stream Commission; and

**Whereas,** The New Mexico CAP Entity is the Successor to the Southwest New Mexico Water Study group named in the Arizona Water Settlement Act (AWSA) as the regional entity authorized to consult with the New Mexico Interstate Stream Commission on withdrawals from the New Mexico Unit Fund **SECTION 212 (i)**, which states that *“Withdrawals from the New Mexico Unit Fund shall be for the purpose of paying costs of the New Mexico Unit or other water utilization alternatives to meet water supply demands in the Southwest Water Planning Region of New Mexico, as determined by the New Mexico Interstate Stream Commission in consultation with the Southwest New Mexico Water Study Group or its successor, including costs associated with planning and environmental compliance activities and environmental mitigation and restoration.”* [Emphasis Added]; and

**Whereas,** HB200 would violate the provisions of the AWSA by replacing the regional authority given to the Southwest New Mexico Study Group with that of the Water Trust Board as the consulting agency, thereby violating the US Constitution Supremacy Clause; and

**Whereas,** the Southwest Region does not have any representation on the Water Trust Board thereby removing the original intent of the AWSA and the New Mexico Unit Fund Act on having the Southwest New Mexico Region participate in the decision-making process; and

**Whereas,** this change in authority could also place additional burdens on the rural communities and association by having to meet the criteria and policies of the Water Trust Board; and


**Whereas,** HB200 would also violate the language in the AWSA by removing provisions of federal law for usage of the NM Unit Fund for the development of New Mexico water through the AWSA and limiting the uses of these funds for water utilization projects; now

**Therefore, be it resolved** that the City of Deming opposes New Mexico House Bill 200 (HB200) for violating the regional decision-making language and intent of the AWSA.

**PASSED, APPROVED, AND ADOPTED** this 16<sup>th</sup> day of February 2021.

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

  
  
Mary Jo Valdez, Municipal Clerk

**New Mexico CAP Entity**  
**Resolution 21-09**  
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**Whereas,** The New Mexico CAP Entity is the Successor to the Southwest New Mexico Water Study group named in the Arizona Water Settlement Act (AWSA) as the regional entity authorized to consult with the New Mexico Interstate Stream Commission on withdrawals from the New Mexico Unit Fund **SECTION 212 (i)**, which states that *“Withdrawals from the New Mexico Unit Fund shall be for the purpose of paying costs of the New Mexico Unit or other water utilization alternatives to meet water supply demands in the Southwest Water Planning Region of New Mexico, as determined by the New Mexico Interstate Stream Commission in consultation with the Southwest New Mexico Water Study Group or its successor, including costs associated with planning and environmental compliance activities and environmental mitigation and restoration.”* [Emphasis Added]; and

**Whereas,** HB200 would violate the provisions of the AWSA by replacing the regional authority given to the Southwest New Mexico Study Group with that of the Water Trust Board as the consulting agency, thereby violating the US Constitution Supremacy Clause; and

**Whereas,** the Southwest Region does not have any representation on the Water Trust Board thereby removing the original intent of the AWSA and the New Mexico Unit Fund Act on having the Southwest New Mexico Region participate in the decision-making process; and

**Whereas,** this change in authority could also place additional burdens on the rural communities and association by having to meet the criteria and policies of the Water Trust Board; and

**Whereas,** HB200 would also violate the language in the AWSA by removing provisions of federal law for usage of the NM Unit Fund for the development of New Mexico water through the AWSA and limiting the uses of these funds for water utilization projects; now

**Therefore, be it resolved** that the City of Deming opposes New Mexico House Bill 200 (HB200) for violating the regional decision-making language and intent of the AWSA.

**PASSED, APPROVED, AND ADOPTED** this 16<sup>th</sup> day of February 2021.

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

  
  
Mary Jo Valdez, Municipal Clerk



**CITY OF DEMING**  
**ORDINANCE NO. 1295**

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 6 OF THE MUNICIPAL CODE OF THE CITY OF DEMING, NEW MEXICO BY AMENDMING SECTIONS 1 AND 4 AND ADDING A NEW SECTION 5 TO PROVIDE FOR AN EXCEPTION DURING A STATE OF EMERGENCY/PANDEMIC**

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

**WHEREAS**, the City Council of the City of Deming finds that the proliferation of the use of plastic carryout bags from wholesale and retail establishments (defined in 4-6-1) within the City contributes to litter upon both public and private land; and

**WHEREAS**, the City Council finds that because the nature of plastic bags, wind conditions make it likely that such litter will move around the City, presenting a continuing redeposition of litter which is likely to have the effect of magnifying the amount of litter within the City, and causing the City to appear unsightly; and

**WHEREAS**, the City Council finds that the proliferation of plastic bag litter has a negative effect upon the residents of the City by creating an aesthetically displeasing environment; and

**WHEREAS**, the City Council finds that a set of regulations designed to eliminate the use of plastic carryout bags by wholesale and retail establishments will be beneficial to the City; and

**WHEREAS**, the City Council has deemed that the amendments to the Municipal Code as provided for herein are necessary for the health, safety and welfare of the inhabitants of the City;

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

Title 4, of the City of Deming Municipal Code is hereby amended adding a new Chapter 6, entitled "Elimination of Plastic Carryout Bags".

**CHAPTER 6**

**ELIMINATION OF PLASTIC CARRYOUT BAGS**

**4-6-1: Definitions:** For the purposes of this Ordinance, the following words shall have the following meanings:

*Plastic Carryout bag* means a carryout bag made of plastic that is provided by a retail establishment to a customer at the point of sale or checkout

*Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuse and is either made of cloth or other machine washable fabric;

*Retail establishment* means any retail business including, without limitation, food, clothing, household goods, or personal items of any kind that sells directly to a customer. Examples include, but are not limited to, department stores, restaurants, clothing stores, jewelry stores, grocery stores, pharmacies, home improvement stores, liquor stores, convenience stores, gas stations, and farmers markets.

*State of Pandemic* means when a state of emergency or pandemic is declared by Federal, State, or Local Government during any type of emergency or natural disaster in efforts to protect and mitigate the health and welfare of all citizens.

*Wholesale establishment* means any warehouse or place where goods are exclusively or principally sold for re-sale and/or where goods are sold for consumption and/or used in another business.

*Person* shall mean a natural person operating a wholesale and/or retail establishment, a business entity of any character operating a wholesale and/or retail establishment, and any individual branch, outlet, or location of a wholesale and/or retail establishment located within the City.

#### **4-6-2 MANDATORY USE OF NON-PLASTIC REUSABLE BAGS AND PAPER BAGS:**

- A. All covered wholesale and retail establishments shall provide only the following bag types at checkout to customers: non-plastic reusable bags, recyclable paper bags, and/or cardboard boxes.
- B. Nothing in this section shall be read to preclude wholesale and retail establishments from making reusable bags available for sale to customers.

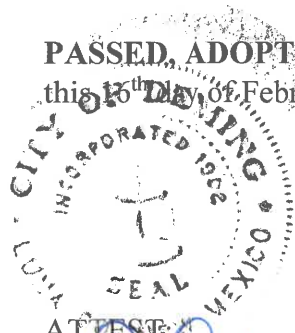
#### **4-6-3 ENFORCEMENT, PENALTIES, AND ADMINISTRATIVE REMEDIES:**

- A. Any person who violates this Ordinance shall be guilty of a municipal offense, and upon conviction thereof, said person shall be punished by a fine not less than \$100.00 nor more than \$500 for each offense. Each day of violation shall be considered a separate offense.
- B. If a person, or wholesale and/or retail establishment has evidenced a pattern of non-compliance with the provisions of this Ordinance, the Code Enforcement Officer of the City shall refer the matter to the City Council, who may, after public hearing, revoke the business license or registration of the offending party. A pattern of non-compliance may be evidenced by multiple violations of this Ordinance as well as proof of administrative attempts at gaining compliance.

**4-6-4 OPERATIVE DATE.** All of the requirements set forth in this Ordinance shall become effective three (3) months after its adoption date.

**4-6-5 EXCEPTION DURING A STATE OF EMERGENCY/PANDEMIC:** When a state of emergency or pandemic has been declared, in which the health of the public is at risk and in efforts of minimizing exposure to any viruses through the use of reusable bags, the use of plastic bags, that are at least 2 mil in thickness or paper bags, by all covered wholesale and retail establishments will be permitted.

**PASSED, ADOPTED AND APPROVED** by vote of the Council of the City of Deming, New Mexico, this 16<sup>th</sup> day of February 2021.



ATTEST:

Mary Jo Valdez, Municipal Clerk

**CITY OF DEMING, NEW MEXICO**

Benny L. Jasso, Mayor

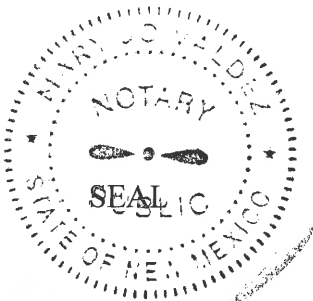
# CITY OF DEMING OATH OF OFFICE

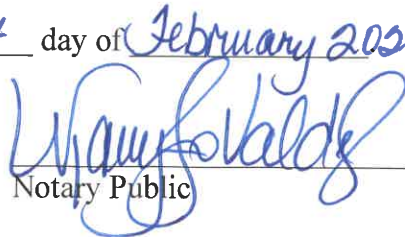
STATE OF NEW MEXICO }  
County of Luna } ss.

I, Joe Owen, having been appointed to the office of Fire Chief for the Deming Fire Department in the CITY OF DEMING, in the County of Luna and State of New Mexico, do solemnly swear that I will support the Constitution of the United States, the Constitution and laws of the State of New Mexico and faithfully and impartially discharge the duties of said office to the best of my ability and in strict accordance with the law, so help me God.

  
Signature

Subscribed and sworn to before me this 17 day of February 2021



  
Notary Public

My Commission Expires: 12-16-21