



BENNY L. JASSO, MAYOR

AARON SERA, ADMINISTRATOR

Phone (575) 546-8848 · Fax (575) 546-6442  
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P.O. BOX 706 · DEMING, NEW MEXICO 88031  
POPULATION 14,000

## **CITY COUNCIL MEETING AGENDA September 21, 2021 5:30 P.M.**

*Those who would like to participate remotely can 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>

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 08/17/2021
  - B. Minutes – Parks Commission 07/13/2021
  - C. Minutes – Planning & Zoning Commission 08/16/2021
  - D. Minutes – Planning & Zoning Commission Special Meeting 08/30/2021
  - E. Minutes – Library Board 08/31/2021 – Cancelled due to lack of quorum
  - F. Resolutions:
    - a. To Consider the Donation of Covi, Police Department Drug Dog, to Southern NM Corrections Facility
    - b. To Consider the Ratification of an Agreement between the City of Deming and the Southwest Council of Governments
    - c. To Consider the Approval of the 2023-2027 ICIP for the Deming Senior Center
    - d. To Consider a Modification to the Termini for the FY2020/2021 Municipal Arterial Program Project Number HW2L1000484
2. Public Comments
3. Request to Approve a Mediation Settlement Agreement and Contingent Fee with New Mexico Taxation and Revenue Department
4. Resolution: To Consider Authorizing and Approving the Submission of an Application for Financial Assistance and Project Approval to the New Mexico Finance Authority
5. Public Hearing to Consider an Update to the Comprehensive Plan
6. Public Hearing to Consider Repealing Ordinance 1127 Pertaining to the Lease to Gerald and/or LaNelle Johnson

7. Public Hearing to Consider Rescinding Ordinance 1295 Pertaining to Carryout Bag Usage
8. Quasi-Judicial Public Hearing: To Consider an Alternate Subdivision for Property Located on the East Side of NM Hwy 11, Approximately 0.1 Mile South of Holly Street, within the City Limits, Requested by Gabriel Dominguez
9. Quasi-Judicial Public Hearing: To consider an Alternate Subdivision for Property Located at 416 S James Street, within the City Limits, Requested by Veronica and Jose Arreola
10. Quasi-Judicial Public Hearing: To consider a Special Use Permit to Operate a Mobile Tire Repair Business Requested by Manuel De Los Reyes
11. Quasi-Judicial Public Hearing: To consider a Special Use Permit for 1-5 Years to Operate a Homeless Shelter at 212/214 S. Copper Street, within the City Limits, Requested by Deming Silver Linings
12. Quasi-Judicial Public Hearing: To consider a Zoning Amendment from Single Family to Multi-Family Dwelling for Property Located at 515 S. Diamond Street, within the City Limits, Requested by Kevin Steele
13. Quasi-Judicial Public Hearing: To Consider a Special Use Permit for Pecos Valley Production to Operate a Proposed Cannabis Cultivation and Production Establishment at 1319 E. Pine Street, within the City Limits of the City of Deming
14. Administrator's Report
15. Closed Session: To discuss the purchase, acquisition or disposal of real property, pursuant to NMSA 1978 Section 10-15-1(H)(8) of the Open Meetings Act
16. Open Session: Motions, if any
17. Adjourn Meeting

***The next regular City Council Meeting is scheduled for October 19, 2021 at 5:30 p.m.***

# CITY COUNCIL MEETING MINUTES

**September 21, 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

Irmisela "Irma" A. Rodriguez, Councilor

Monica Topham, Councilor

**Council Present (Telephonically):** Dr. Victor Cruz, Councilor

## **Council Absent:**

**Staff Present:** Aaron Sera, Administrator

Laura Holguin, Finance Director/CFO

Azucena Vargas, Assistant PWD

Alex Valdespino, Chief of Police

William Perkins, Attorney

Adrian Coloma, IT

Jim Massengill, Public Works Director

Alexi Jackson, Community Services Director

Joe Owen, Fire Chief

Clint Hogan, Asst. Chief of Police

Lane Camfield, Planner

**Staff Present (Telephonically/Virtually):**

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

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

A quorum was present.

## **1. Consent Agenda**

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

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

### **ROLL CALL VOTE**

Councilor Topham Aye

Councilor Rodriguez Aye

Mayor Pro Tem Milo Aye

Councilor Cruz was not present during the start of the meeting until after the public forum had closed.

## **2. Public Forum**

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

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

**A RESOLUTION AUTHORIZING THE DEMING POLICE DEPARTMENT TO  
DONATE ONE (1) GERMAN SHEPHERD POLICE CANINE TO THE  
NEW MEXICO DEPARTMENT OF CORRECTIONS**

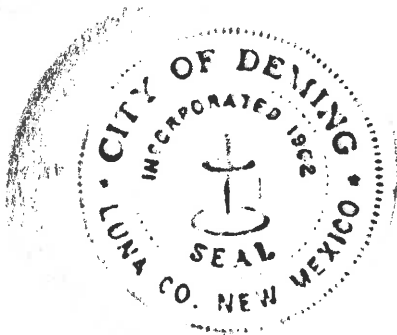
**WHEREAS**, the Deming Police Department is requesting authorization to donate one (1) German Shepherd Canine (Covi), with an approximate value of \$2,000, to the New Mexico Department Corrections; and

**WHEREAS**, the Deming Police Department no longer will use the canine listed above, as will no longer be able to be utilized as a narcotics' detecting K-9 due to the recent legalization of marijuana and is considered out of service; and

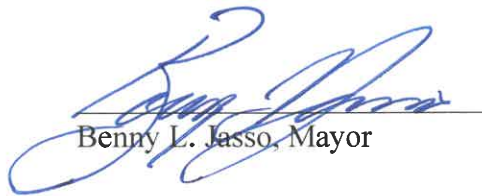
**WHEREAS**, the Deming Police Department believes that the New Mexico Department of Corrections would benefit from the donation of the canine.

**NOW THEREFORE, BE IT FURTHER RESOLVED** by the governing body of the City of Deming, that the Canine described above, with an approximate value of \$2,000, be approved for donation to the New Mexico Department of Corrections; and that staff be authorized to execute the necessary documents to do so.

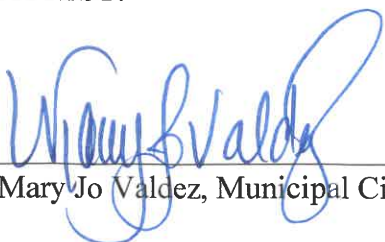
**PASSED, ADOPTED, AND APPROVED** this 21<sup>st</sup> day of September, 2021



**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

ATTEST:

  
Mary Jo Valdez, Municipal City Clerk

RESOLUTION NO. 21-22

RESOLUTION OF THE CITY OF DEMING RATIFYING A CERTAIN AGREEMENT BETWEEN THE CITY OF DEMING AND THE SOUTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS, DATED SEPTEMBER 21, 2021, AND AUTHORIZING THE EXECUTIVE OF SAME BY THE PROPER OFFICIAL OF CITY OF DEMING.

WHEREAS, The City of Deming is a member of and desires to have the services of the Southwest New Mexico Council of Governments; and

WHEREAS, it is necessary that an agreement setting forth the services to be performed by the Southwest New Mexico Council of Governments for The City of Deming be entered into and it is a requirement of the New Mexico State Laws; and

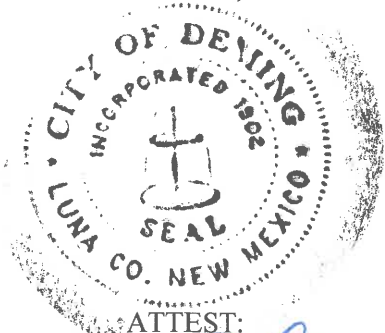
WHEREAS, it is necessary to set forth the sum to be paid by The City of Deming to the Southwest New Mexico Council of Governments, as annual dues, for said services; and

WHEREAS, it is the desire of The City of Deming to accomplish these purposes:

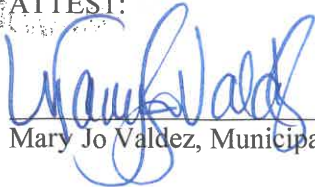
NOW THEREFORE BE IT RESOLVED BY THE CITY OF DEMING THAT:

1. The AGREEMENT referred to in the caption of this Resolution (a copy of which is attached hereto and made a part hereof) expresses the desires and intent of The City of Deming.
2. The AGREEMENT set above is hereby ratified and approved by the authorized representatives of The City of Deming and is hereby authorized and instructed to affix their signature thereto.
3. A Certified copy of this Resolution (together with the Agreement) shall be filed at the Southwest New Mexico Council of Governments.

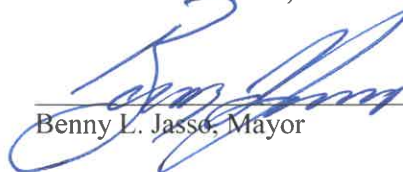
PASSED, ADOPTED AND APPROVED this 21<sup>st</sup> day of September 2021.



ATTEST:

  
Mary Jo Valdez, Municipal City Clerk

CITY OF DEMING, NEW MEXICO

  
Benny L. Jasso, Mayor

RESOLUTION NO. 21-23

RESOLUTION ADOPTING AN INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN  
(ICIP) FOR THE CITY OF DEMING, NEW MEXICO,  
DEMING SENIOR CENTER

WHEREAS, the municipality of Deming recognizes that the financing of public capital projects has become a major concern in New Mexico and nationally; and

WHEREAS, in times of scarce resources, it is necessary to find new financing mechanisms and maximize the use of existing resources; and

WHEREAS, systematic capital improvements planning is an effective tool for communities to define their development needs, establish priorities and pursue concrete actions and strategies to achieve necessary project development; and

WHEREAS, this process contributes to local and regional efforts in project identification and selection in short and long-range capital planning efforts.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPALITY OF DEMING That:

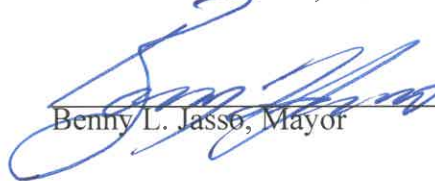
1. The municipality has adopted the attached FY 2023-2027 Infrastructure Capital Improvements Plan for the Deming Senior Center, and
2. It is intended that the Plan be a working document and is the first of many steps toward improving rational, long-range capital planning and budgeting for the New Mexico's infrastructure.

PASSED, APPROVED AND ADOPTED by the governing body at its meeting of September 21, 2021.



ATTEST:

CITY OF DEMING, NEW MEXICO

  
Benny L. Jasso, Mayor

  
Mary Jo Valdez, Municipal City Clerk

**CITY OF DEMING  
RESOLUTION NO. 21-24**

**A RESOLUTION MODIFYING THE AGREEMENT BETWEEN THE CITY  
OF DEMING AND THE NEW MEXICO DEPARTMENT OF  
TRANSPORTATION FOR MUNICIPAL ARTERIAL PROGRAM (MAP  
FUNDS) FOR ROAD AND DRAINAGE IMPROVEMENTS ON NM 427  
(COUNTRY CLUB ROAD),  
FROM FLORIDA STREET TO BIRCH STREET**

**WHEREAS**, the City of Deming is modifying the project limits for Municipal Arterial Program (MAP) Funding HW2 L1000484 from the New Mexico Department of Transportation for project development, design, construction, construction management and construction services for Road and Drainage Improvements on NM 427 (Country Club Road), from Florida Street to Birch Street; and

**WHEREAS**, the project is within the City of Deming's jurisdiction, necessary for the public good and convenience, and to serve the public of the City of Deming; and

**WHEREAS**, the New Mexico Department of Transportation has awarded FY 2020/2021 Municipal Arterial Program funding HW2L1000484; and

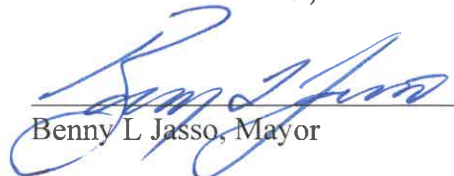
**WHEREAS**, the New Mexico Department of Transportation requires approval of an agreement for the City to modify the termini for this project.

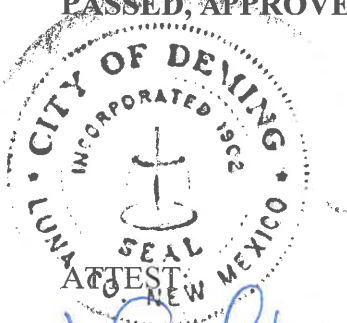
**NOW THEREFORE, BE IT RESOLVED** that the Governing Body of the City of Deming does hereby determine and resolve as follows:

1. That the project MAP funding will be utilized for the project development, design, construction, construction management and construction services for road and drainage improvements on NM 427 (Country Club Road), from Florida Street to Birch Street.
2. That the Mayor, City Administrator, Community Services Director, or his successor, is authorized to execute any subsequent agreement.
3. That staff is directed to take such other actions and execute other documents as may be necessary to implement this Resolution.

**PASSED, APPROVED, AND ADOPTED** this 21<sup>st</sup> day of September 2021.

**CITY OF DEMING, NEW MEXICO**

  
Benny L Jasso, Mayor



  
Mary Jo Valdez, Municipal City Clerk



**3. Request to Approve a Medication Settlement Agreement and Contingent Fee with New Mexico Taxation and Revenue Department**

Ms. Holguin addressed Council explaining that the settlement agreement being presented is to participate in a medication settlement in which 44 municipalities and counties, throughout the state are part of which will settle a lawsuit over the distribution of gross receipts under NMSA 1978, 7-1-6.15 through May 31, 2021.

Ms. Holguin stated that the city joined back in 2019, based off 2009 allocations. Ms. Holguin stated that the net amount of recovery is \$390,348.46. Mr. Sera added the distribution amount is after attorney fees and will go back into the general fund.

Ms. Holguin stated that once approved, the agreement will be sent to the attorney for processing with a payment anticipated in October.

Mayor Pro Tem Milo motioned to approve request to approve the mediation settlement agreement and contingent fee with New Mexico Taxation and Revenue Department; Councilor Rodriguez second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Cruz	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye
Mayor Pro Tem Milo	Aye

**4. Resolution: To Consider Authorizing and Approving the Submission of an Application for Financial Assistance and Project Approval to the New Mexico Finance Authority**

Ms. Holguin addressed Council explaining that proposed resolution is a formality to apply for a loan of \$2.5 million in addition of what is already allocated for the Kmart remodel to ensure there are enough funds. Ms. Holguin stated that the

Mr. Sera added that funds will be used to remodel Kmart for City Offices, adding that the current City Hall will be housing the Deming Police Department and Deming Fire Department. Mr. Sera stated that he anticipates the bidding to be approximately \$7 - \$7.5 million for the remodel.

Councilor Rodriguez motioned to approve the resolution, as presented; Councilor Topham second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Mayor Pro Tem Milo	Aye
Councilor Cruz	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye



**APPROVAL OF MEDIATION SETTLEMENT AGREEMENT,  
SETTLEMENT AMOUNT AND CONTINGENT FEE  
ON BEHALF OF THE CITY OF DEMING**

**Re: No. D-202-CV-2018-08036, *City of Albuquerque, et al v. Stephanie Schardin Clarke and New Mexico Taxation and Revenue Department*, in the Second Judicial District Court of New Mexico (the “Lawsuit”)**

In the above-referenced Lawsuit, Petitioners are 44 municipalities and counties, including the City of Deming (“Deming”), in this state (collectively “Petitioners”), and Respondents are the New Mexico Taxation and Revenue Department and its Cabinet Secretary (collectively the “Department”). Petitioners and the Department shall be referred to as the “Parties,” collectively.

**Approval of Mediation Settlement Agreement**

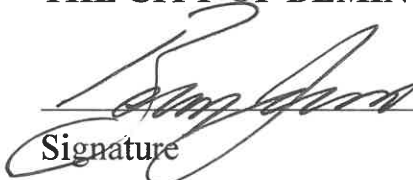
By a Mediation Settlement Agreement, dated September 7, 2021, the Parties reached an agreement to settle and compromise the claims asserted in the Lawsuit, *subject to approval by (1) the respective governing bodies of Petitioners and (2) the Cabinet Secretary of the Department*. Under the Mediation Settlement Agreement, the Department, among other things, has agreed to pay certain amounts in settlement of any and all claims that have been asserted or could have been asserted by Petitioners in the Lawsuit arising from reductions that the Department made to distributions of gross receipts tax under NMSA 1978, § 7-1-6.15 through May 31, 2021. Also, among other things, Petitioners have agreed to release any and all claims that have been asserted or could have been asserted by Petitioners, respectively, in the Lawsuit arising from reductions that the Department made to distributions of gross receipts tax to Petitioners, respectively, under NMSA 1978, § 7-1-6.15 through May 31, 2021.

Under the Mediation Settlement Agreement, the Department has agreed to pay a substantial amount to settle the claims asserted in the Lawsuit. Petitioners have agreed to a methodology for allocating the total settlement amount among themselves. The Department has agreed to distribute the individual settlement amounts via one-time payments to Petitioners on or before the first distribution attributable to gross receipts tax following (a) the approval of the Mediation Settlement Agreement by all of the Parties and (b) the Department’s receipt the releases executed by each Petitioner, which the Department will hold in trust pending Petitioners’ confirmation of receipt of one-time payments. Petitioners will be allowed fifteen (15) days following the one-time payments to confirm receipt of the payments (as shown on their ACH transfer); Petitioners’ counsel shall advise the

Gallagher & Kennedy, P.A. will invoice Deming for the amount of the Contingent Fee. The Contingent Fee will be due and payable upon receipt of the settlement funds by Deming.

Deming approves the payment of the Contingent Fee, and Deming agrees to promptly pay the Invoice for the Contingent Fee upon receipt of the settlement funds by Deming.

**THE CITY OF DEMING**

  
\_\_\_\_\_  
Signature

Benny Jasso  
\_\_\_\_\_  
Printed Name

Mayor  
\_\_\_\_\_  
Title

9-21-21  
\_\_\_\_\_  
Date

**RELEASE OF CLAIMS**  
**FOR THE CITY OF DEMING**

**Re: No. D-202-CV-2018-08036, *City of Albuquerque, et al v. Stephanie Schardin Clarke and New Mexico Taxation and Revenue Department*, in the Second Judicial District Court of New Mexico (the “Lawsuit”)**

In the above-referenced Lawsuit, Petitioners are 44 municipalities and counties, including the City of Deming (“Deming”), in this state (collectively “Petitioners”), and Respondents are the New Mexico Taxation and Revenue Department and its Cabinet Secretary (collectively the “Department”). Petitioners and the Department shall be referred to as the “Parties,” collectively.

By a Mediation Settlement Agreement, dated September 7, 2021, the Parties reached an agreement to settlement and compromise the claims asserted in the Lawsuit, *subject to approval by (1) the respective governing bodies of Petitioners and (2) the Cabinet Secretary of the Department*. Under the Mediation Settlement Agreement, the Department, among other things, has agreed to pay certain amounts in settlement of any and all claims that have been asserted or could have been asserted by Petitioners in the Lawsuit arising from reductions that the Department made to distributions of gross receipts tax under NMSA 1978, § 7-1-6.15 through May 31, 2021. Also, among other things, Petitioners have agreed to release any and all claims that have been asserted or could have been asserted by Petitioners, respectively, in the Lawsuit arising from reductions that the Department made to distributions of gross receipts tax to Petitioners, respectively, under NMSA 1978, § 7-1-6.15 through May 31, 2021.

**Release by Artesia in favor of TRD**

In exchange for the payment made or to be made by the Department and other valid and sufficient consideration provided by the Department to Deming, Deming, for itself and its legal representatives, successors and assigns, hereby RELEASE AND DISCHARGE the Department and its legal representatives, successors, assigns, agents, attorneys, and all other persons or entities to whom or for whose conduct the Department may be liable (collectively “the Department Released Parties”), from any and all claims, demands and causes of action of whatever nature, whether known or unknown, whether in contract or in tort, arising under or by virtue of any statute or regulation or under common law, for any losses or claims of any kind, including but not limited to claims for damages and/or economic losses and/or attorneys’ fees, which have accrued or may accrue to Deming relating to reductions

THE CITY OF DEMING

By: \_\_\_\_\_

Benny Jasso

Printed Name

Mayor

Title

STATE OF NEW MEXICO

§

COUNTY OF

Luna

§

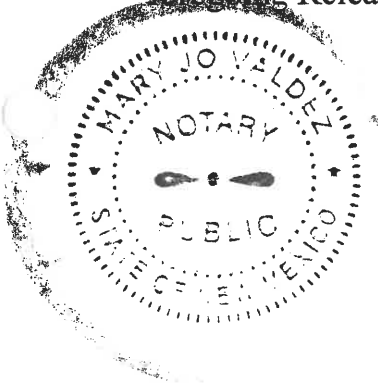
§

Before me, the undersigned authority, on this 21<sup>st</sup> day of September, 2021, personally appeared Benny Jasso, the authorized representative of the City of Deming, who upon his or her oath averred that he has executed the foregoing Release for the purposes expressed therein.

Mary Jo Valdez

Notary Public in for the State of New Mexico

My commission expires: 12-16-21



## **MEDIATION SETTLEMENT AGREEMENT**

**Re: No. D-202-CV-2018-08036, *City of Albuquerque, et al v. Stephanie Schardin Clarke and New Mexico Taxation and Revenue Department*, in the Second Judicial District Court of New Mexico (the "Lawsuit")**

In the above-referenced Lawsuit, Petitioners are 44 municipalities and counties in this state (collectively "Petitioners"), and Respondents are the New Mexico Taxation and Revenue Department and its Cabinet Secretary (collectively the "Department"). Petitioners and the Department shall be referred to as the "Parties," collectively.

Through their respective counsel and/or authorized representatives, the Parties participated in the mediation of the Lawsuit before Hon. Michael Bustamante (the "Mediator") on April 28, 2021. At that time, the Parties did not reach a settlement agreement. However, the Parties continued settlement discussions with the assistance of the Mediator. Through such efforts, the Parties reached a settlement agreement-in-principle, *subject to the approval by (1) the respective governing bodies of Petitioners and (2) the Cabinet Secretary of the Department*, on August 4, 2021.

Under the settlement agreement-in-principle, the Parties have agreed to the following:

(1) The Department will pay a total amount of Fifty Million and No/100 (\$50,000,000.00) in settlement of any and all claims that have been asserted or could have been asserted by Petitioners in the Lawsuit arising from reductions that the Department made to distributions of gross receipts tax under NMSA 1978, § 7-1-6.15 through May 31, 2021.

(2) Each Petitioner will release any and all claims that have been asserted or could have been asserted by the Petitioner in the Lawsuit arising from reductions that the Department made to distributions of gross receipts tax to Petitioners, respectively, under NMSA 1978, § 7-1-6.15 through May 31, 2021.

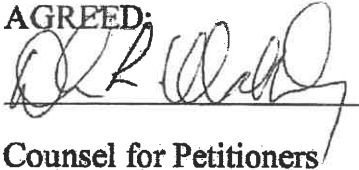
(3) If any Petitioner does not approve this Mediation Settlement Agreement, then upon notice from Petitioners' counsel to that effect, the Department may (1) elect to disapprove the Settlement Agreement, in which case it shall be null and void and either Party may notify the Court and propose a scheduling conference, or (2) elect to approve this Mediation Settlement Agreement as to all Petitioners who have accepted it and to nullify the Mediation Settlement Agreement only as to the

(11) In the event there is any dispute over this Mediation Settlement Agreement, the Parties agree to submit the dispute to non-binding mediation before the Mediator; and if the mediation should not be successful, the Parties agree to submit the dispute to a District Judge in Bernalillo County in the Second District of New Mexico, who will decide the dispute without a jury (as the Parties hereby agree to waive any right to trial by jury regarding this issue).

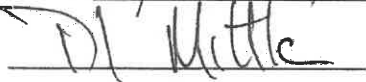
(12) The Parties acknowledge that, in reaching this Mediation Settlement Agreement, the Parties have relied on their own counsel and have not relied on any representation by any opposing Parties or the opposing Parties' counsel, or the Mediator. Rather, the Parties to this Mediation Settlement Agreement have made certain that this agreement has been independently reviewed by their own legal counsel before executing this Mediation Settlement Agreement.

The Parties have read and understand this Mediation Settlement Agreement, and further agree to be bound by this Mediation Settlement Agreement, which is *subject to final approval by (1) the respective governing bodies of Petitioners and (2) the Cabinet Secretary of the Department.*

AGREED:

  
Counsel for Petitioners

Date: September 7, 2021

  
Counsel for the Department

Counsel for the Department

Date: Sept. 7, 2021

**RESOLUTION NO. 21-25**

**AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION  
FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE  
NEW MEXICO FINANCE AUTHORITY.**

WHEREAS, the City of Deming is a qualified entity under the New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, 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 public project revolving 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 acquisition, construction and improvement of the Remodel of the Kmart Building to Relocate City Hall Offices for the benefit of the City of Deming and its citizens; and

WHEREAS, the application prescribed by the Authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application.

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 Application and the Project, be and the same is hereby ratified, approved and confirmed.

Section 2. That the completed Application submitted to 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 Application 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 Application and to further proceed with arrangements for financing the Project.

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

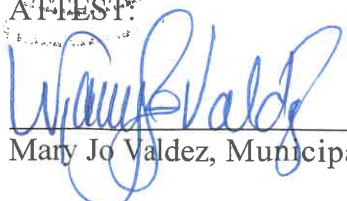
Section 5. This resolution shall take effect immediately upon its adoption.

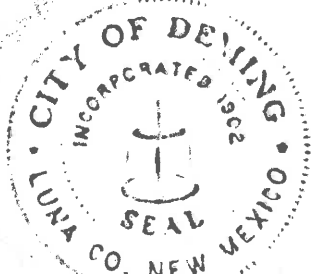
PASSED, APPROVED, AND ADOPTED this 21<sup>st</sup> day of September 2021.

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

ATTEST:

  
Mary Jo Valdez, Municipal City Clerk





**5. Public Hearing to Consider an Update to the Comprehensive Plan**

Mayor Jasso conducted a public hearing to consider an update to the Comprehensive Plan.

Ms. Goikovich, SWNM Council of Governments, presented the updated Comprehensive Plan explaining that the update is required, as a living document that can be adaptable to evolving conditions of physical development, economic health, and social wellbeing to help fulfill the community's vision over the next 20 years.

Mr. Sera added that the city is required to update the plan every 5 years, stating that this is the 4<sup>th</sup> year.

Mayor Jasso opened the hearing for public comments.

Councilor Cruz questioned how private citizens can donate land for housing. Mr. Sera stated that the private sector can donate to the city and the City can provide a statement of value for a tax credit.

With no further comments, Mayor Jasso closed public comments and asked Council for a motion.

Mayor Pro Tem Milo motioned to approve the update of the comprehensive plan, as submitted; Councilor Cruz second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Councilor Rodriguez	Aye
Councilor Topham	Aye
Mayor Pro Tem Milo	Aye
Councilor Cruz	Aye

**6. Public Hearing: To Consider Repealing Ordinance 1127 Pertaining to the Lease to Gerald and/or LaNelle Johnson**

Mayor Jasso conducted a public hearing to consider repealing Ordinance 1127 pertaining to the lease to Gerald and LaNelle Johnson for the land also known as "Murdock Farm".

Mr. Sear addressed Council and explained that the Johnsons have not utilized the land as stated in the ordinance and is seeking to repeal the ordinance as the parties are deceased and so that the City may move forward with a proposed project.

Mayor Jasso opened the hearing for public comments.

With no comments, Mayor Jasso asked Council for a motion.

Councilor Cruz motioned to approve the ordinance repealing Ordinance 1127; Councilor Rodriguez second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Mayor Pro Tem Milo	Aye
Councilor Topham	Aye
Councilor Cruz	Aye
Councilor Rodriguez	Aye

**CITY OF DEMING  
ORDINANCE NO. 1304**

**AN ORDINANCE TO REPEAL ORDINANCE 1127  
APPROVING THE LEASE OF REAL ESTATE OWNED BY THE  
CITY OF DEMING TO GERALD AND/OR LANELLE JOHNSON**

**WHEREAS**, on November 03, 2005, the Council of the City of Deming, New Mexico passed an Ordinance approving the lease of real estate owned by the City of Deming, referred to as Murdock Farm, to Gerald and/or LaNelle Johnson whose address is 3350 El Bordo Rd., SE Deming, New Mexico 88030; and

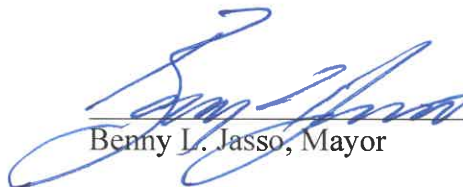
**WHEREAS**, the City of Deming will notify Gerald and/or LaNelle Johnson giving them the final termination date of said lease agreement of October 01, 2021, upon City Council's approval; and

**THEREFORE, BE IT ORDAINED** that Ordinance No. 1127 passed on November 03, 2005 is hereby repealed, and any authorization granted under the original ordinance is also hereby rescinded.

**PASSED, ADOPTED, AND APPROVED** this 21<sup>st</sup> day of September, 2021 by the City Council of the City of Deming.



**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

ATTEST:

  
Mary Jo Valdez, Municipal City Clerk

**7. Public Hearing: To Consider Rescinding Ordinance 1295 Pertaining to Carryout Bag Usage**

Mayor Jasso conducted a public hearing to consider rescinding Ordinance 1295 pertaining to the usage of carryout bags.

Mr. Sera addressed Council and explained that the recent ordinance was previously passed with not much public input during the pandemic. Mr. Sera stated that retailers were spending a significant amount on obtaining the bags that are required and have met with staff and the Mayor to address this concern. Mr. Sera stated that he hopes to receive more input on this issue to come forward with a revised ordinance at a later date.

Mayor Jasso opened the hearing for public comments.

Mr. Dominguez addressed Council stating that there were only two persons at the hearing and that not many people seemed interested but they complain.

Mr. Sera stated that he anticipates having a virtual meeting for more input.  
With no further comments, Mayor Jasso asked Council for a motion.

Mayor Pro Tem Milo motioned to approve the ordinance rescinding Ordinance 1295 for further amendments; Councilor Topham second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Councilor Cruz	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye
Mayor Pro Tem Milo	Aye

**CITY OF DEMING  
ORDINANCE NO. 1305**

**AN ORDINANCE TO RESCINDING ORDINANCE 1295 WHICH AMENDED  
TITLE 4, CHAPTER 6 OF THE MUNICIPAL CODE  
IMPLEMENTING REGULATIONS FOR THE USE OF CARRYOUT BAGS  
DURING THE STATE OF EMERGENCY/PANDEMIC**

**WHEREAS**, on February 16, 2021 the Council of the City of Deming, New Mexico passed an Ordinance implementing regulations for retail and wholesale establishments regarding the use of carryout bags during the state of emergency/pandemic; and

**WHEREAS**, the City of Deming has found it to be a monetary hardship for many establishments to comply with the guidelines set forth in Ordinance 1295; and

**WHEREAS**, the original ordinance was passed with little input and education regarding these issues and City Council and staff will continue to seek public input on this matter to draft and consider a more justifiable ordinance to rectify this matter.

**THEREFORE, BE IT ORDAINED** that Ordinance No. 1295 passed on February 16, 2021 is hereby rescinded, and any authorization granted under the original ordinance is also hereby rescinded.

**PASSED, ADOPTED, AND APPROVED** this 21<sup>st</sup> day of September, 2021 by the City Council of the City of Deming.



ATTEST:

  
\_\_\_\_\_  
Mary Jo Valdez, Municipal City Clerk

**CITY OF DEMING, NEW MEXICO**

  
\_\_\_\_\_  
Benny L. Jasso, Mayor

Mayor Jasso asked that all parties who are signed in or plan to provide testimony or address Council for the Quasi-Judicial Public Hearings listed in items 8, 9, 10, 11, 12 and 13, swear-in and administered the swearing in of all parties.

**8. Quasi-Judicial Public Hearing: To Consider an Alternate Subdivision for Property Located on the East Side of Hwy. 11, approximately 0.1 Mile South of Holly Street, within the City Limits, Requested by Gabriel Dominguez**

Mayor Jasso conducted a quasi-judicial public hearing to consider an alternate subdivision for property located on the East side of Hwy. 11, approximately 0.1 Mile South of Holly Street, within the City Limits, requested by Gabriel Dominguez.

Mayor Jasso asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, addressed Council stating that the applicant, Gabriel Dominguez is requesting the approval of an alternate subdivision for the property located on NM Highway 11, approximately 0.1 of a mile south from Holly Street, to split the property into 4 lots.

Mr. Dominguez stated that he wishes to split the lot into 4 in hopes of developing the property in the future, whether by leasing the lots or selling.

Mr. Dominguez has been informed that prior to development of the property, there may be easement requirements for utilities and/or ingress and egress; drainage study to address the increase of run-off; NMDOT access from NM-11; and the development of the dedicated road to the east of the property should be addressed in the aspect of maintenance responsibilities.

During the Planning and Zoning meeting on August 16, 2021, the Commission recommended the approval of the Subdivision with no conditions with the understanding that the applicant has been informed of easement requirements, as submitted, and stated above.

Mayor Jasso asked if staff or Council had any questions.

Councilor Cruz stated that if the property were sold, the buyer would be responsible for following code. Mr. Camfield confirmed.

Mayor Jasso asked if the applicant would like to make a statement. Mr. Dominguez stated that he did not have anything to add.

Mayor Jasso asked if Council had any questions for the applicant. There were none.

Mayor Jasso asked if there were any affected parties that would like to speak. There were none.

Mayor Jasso asked if there were any registered parties that would like to cross-examine any party having already given testimony. There were none.

Mayor Jasso closed the public hearing and asked for Council's decision.

Councilor Cruz motioned to approve the alternate subdivision request as presented; Mayor Pro Tem Milo second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Councilor Topham	Aye
Councilor Rodriguez	Aye
Mayor Pro Tem Milo	Aye
Councilor Cruz	Aye

**9. Quasi-Judicial Public Hearing: To Consider an Alternate Subdivision for Property Located at 416 James Street, within the City Limits, Requested by Veronica and Jose Arreola**

Mayor Jasso conducted a quasi-judicial public hearing to consider an alternate subdivision for property located at 416 James Street, within the City Limits, requested by Veronica and Joe Arreola.

Mayor Jasso asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, addressed Council stating that the applicants, Mr., and Mrs. Arreola are requesting the approval of an alternate subdivision for the property located at 416 S. James St. to split lots 5 and 6.

The applicant's home is on Lot 5. Lot 6 is the Grandfather's Single wide Mobile home. The applicants would like to split the lot to transfer ownership to their grandfather who owns lot 6.

During the Planning and Zoning meeting on August 16, 2021, the Commission recommended the approval of the request for the Subdivision with no conditions.

Mayor Jasso asked if staff or Council had any questions. There were none.

Mayor Jasso asked if the applicant would like to make a statement. The applicant did not wish to add any information.

Mayor Jasso asked if Council had any questions for the applicant. There were none.

Mayor Jasso asked if there were any affected parties that would like to speak. There were none.

Mayor Jasso asked if there were any registered parties that would like to cross-examine any party having already given testimony. There were none.

Mayor Jasso closed the public hearing and asked for Council's decision.

Councilor Cruz motioned to approve the alternate subdivision request, as presented; Councilor Rodriguez second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Mayor Pro Tem Milo	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye
Councilor Cruz	Aye

**10. Quasi-Judicial Public Hearing: To Consider a Special Use Permit to Operate a Mobile Tire Repair Business Requested by Manuel De Los Reyes**

Mayor Jasso conducted a quasi-judicial public hearing to consider a Special Use Permit to operate a mobile tire repair business requested by Manuel De Los Reyes.

Mayor Jasso asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, addressed Council stating that the applicant, Mr. De Los Reyes wishes to operate a mobile tire repair business to include light mechanic work.

The City Clerk has reviewed the business license application and has referred it for a Special Use Permit as required by City Ordinance.

During the Planning and Zoning meeting, on August 16, 2021, the Commission recommended the approval of the request for the mobile business with the conditions that the applicant contract with a waste company for the need to dispose of any hazardous waste and that there will be no

vehicles kept at his place of residence. The conditions were explained to the applicant, and he agreed.

Staff has no objections to the approval of their request, with the conditions, aforementioned, that were communicated to the applicant.

Mayor Jasso asked if staff or Council had any questions. Mayor Pro Tem Milo asked if tires would be fixed or if the service would just provide a change to a spare tire. Mr. De Los Reyes stated he will repair the tire and provide any light mechanic work needed.

Councilor Cruz stated the concern of being in a community that may not allow auto work and if it will apply. Mr. Sera stated that if there are restrictions, they will have to comply with them.

Mayor Jasso asked if the applicant would like to make a statement. The applicant did not wish to add any information.

Mayor Jasso asked if Council had any questions for the applicant. They were addressed.

Mayor Jasso asked if there were any affected parties that would like to speak. There were none.

Mayor Jasso asked if there were any registered parties that would like to cross-examine any party having already given testimony. There were none.

Mayor Jasso closed the public hearing and asked for Council's decision.

Councilor Rodriguez motioned to approve the special use for the operation of a mobile tire repair business as presented with all stipulations mentioned; Councilor Cruz second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Topham	Aye
Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Rodriguez	Aye



**11. Quasi-Judicial Public Hearing: To Consider a Special Use Permit for 1-5 Years to Operate a Homeless Shelter at 212/214 S. Copper Street, within the City Limits, Requested by Deming Silver Linings**

Mayor Jasso conducted a quasi-judicial public hearing to consider a Special Use Permit 1-5 Years to Operate a Homeless Shelter at 212/214 S. Copper Street, within the City Limits, Requested by Deming Silver Linings.

Mayor Jasso asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, addressed Council stating that the applicant, Deming Silver Linings, located at 212-214 South Copper Street, are requesting a second extension of a Special Use Permit granted to them in June of 2020 for an additional 1 to 5 years.

The purpose for the first extension granted in June 2020 was so that the organization could have more time to seek a sustainable solution and location in which to operate. City Council granted a Special Use Permit on November 12, 2019, and extended the timeframe with the approval of the first extension on June 16, 2020 which allowed for an additional year.

During the Planning and Zoning meeting on August 16, 2021, the extension was denied. The Commission based their decision on the length of time which should have been adequate to find a more suitable location; in addition, a concern of the fact that the services rendered are in close proximity to both residential and a daycare property.

Staff has reviewed the request and some concerns which are as follows:

The housing of the homeless in tents in this area is a temporary solution and a year and a half is plenty of time to have found a more reasonable location.

Another concern is that the location of the facility, as it pertains to residual housing, apartments, and a daycare center, is in very close proximity. Staff and P&Z were informed by Silver Linings, that they do not perform background checks, and only check the sex offender's registry in which those residents are responsible for notifying surrounding daycare facilities and/or schools with no verification performed by the organization.

It is staff's understanding that the Deming Fire Department may have some additional concerns relating to fire services; and that the Deming Police Department may also have some concerns, in regard to public safety.

Mayor Jasso asked if staff or Council had any questions.

Councilor Cruz asked if Fire or Police Departments had any concerns that may need to be addressed, as stated by Mr. Camfield.

Mayor Jasso asked if the applicant would like to make a statement. Mayor Jasso asked if Council had any questions for the applicant.

Ms. Fairman addressed Council. (attachment of statement provided)

Mayor Pro Tem Milo asked whether there had been any issues out at the location.

Chief Valdespino stated that one of his officers almost lost his life due to an incident that occurred at the location. Chief Valdespino noted that there was a significant increase in crime in the location as opposed to what was on record for 2011-2019. Chief Valdespino also noted that there have been an increase in homeless persons in town as they are being dropped off in town by a bus transport because of the location of the shelter.

Councilor Rodriguez stated that she agrees that the services are necessary however she felt that the location was not the appropriate place for them to be offered as they are located within a

neighborhood which has changed in dynamic as a result of the operation of the shelter. Councilor Rodriguez added that there are persons who are using the restroom in the alley and also sleeping in the alley next to a day care center and neighborhood areas.

Councilor Cruz asked if it is a homelessness issue or safety and security concerns, it is the City's duty to find a suitable location for them.

Mr. Sera stated that it is not a simple solution. Adding that he has been communicating with the County Manager Brice to come up with a domestic and homeless shelter. Mr. Sera added that he will assemble a team to figure out a better solution.

Fire Chief Owen addressed Council stating that IFC Code will have to be followed and in compliance with mentioning the structures that have been proposed. Chief Owen stated that the State Fire Marshall has jurisdiction to shut down the facility should the IFC not be in compliance. Chief Owen stated that more detailed information is needed on the structures as well as on the premises to forward to the State Fire Marshall to confirm compliance.

Councilor Cruz stated he appreciates concerns made by the Police and Fire Chiefs, adding that there needs to be a resolution found for this service.

Mayor Jasso asked if there were any affected parties that would like to speak.

Mayor Jasso asked if there are any registered parties that would like to cross-examine any party having already given testimony.

Mr. Dominguez addressed Council stating that he would not want this operation around his house, had he lived near adding that if there is something permanent and people hear about it, they will continue to come and the problem will get bigger.

Mayor Jasso closed the public hearing and asked for Council's decision.

Mayor Pro Tem Milo motioned to approve the special use permit for two years to figure out a better solution; Councilor Cruz second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Rodriguez	Nay
Councilor Topham	Aye
Mayor Pro Tem Milo	Aye
Councilor Cruz	Aye

## September 21, 2021 Deming City Council Meeting

REQUEST EXTENSION OF SPECIAL USE PERMIT for Deming Silver Linings (DSL) to operate up to 7 outdoor camping shelters in the back yard at 212 South Copper St. as temporary shelters for homeless people.

### PERMIT HISTORY

- 2019 Deming City Council approved 6-month special use permit for 11 camp sites
- June 2020 City Council approved 1-year extension of the special use permit to continue temporary housing for persons experiencing homelessness. Separate from the permit approval, City staff proposed working with DSL to find a better location but circumstances did not allow City staff to pursue looking for an alternative site this past year.
- August 16, 2021 Deming Planning Commission denied DSL request for extension of the special use permit based on their misunderstanding that DSL was supposed to move their temporary shelters by June 2021 to a better location.

DSL OPERATIONS at 212-214 South Copper Include the following services:

- Resource Center for homeless
- Community Meals
- Temporary Shelters for homeless people
- Thrift Store

DSL RESOURCE CENTER SERVICES PROVIDED Jan-July 2021

- 198 Showers
- 175 Laundry
- 571 Snack bags (one/day for individuals who have no means of food preparation)
- 180 Clothing assistance
- 87 Toiletry bags
- 500+ Coffee and/or Conversation
- 16 Pet Assistance

#### DSL COMMUNITY MEALS PROVIDED Jan-June 2021

- 4,077 Meals served (offered Tue-Wed-Thur)

#### DSL TEMPORARY SHELTER FOR HOMELESS AT BACKYARD CAMP June 2020 – May 2021

- 16 people (13 male, 3 female) provided tent shelters
- 129 Total shelter nights
- 4 months closed due to Covid restrictions
- Many Improvements made including:
  - Backyard leveled and filled to correct water drainage issues
  - Deteriorated wooden shed removed (concrete pad saved)
  - Metal carport structure (12x30) erected to provide common space for campers
  - Electrical service added to carport (structure enclosed on 3 sides)
  - Revised agreement for campers
  - Developed a Night security detail agreement
  - Established a fund for construction of better shelter structures

#### DSL THRIFT STORE June 2020 – May 2021

- Resale of donations (average \$1400.00 monthly) used to help operate the Resource Center

#### DSL BOARD OF DIRECTORS

Margaret Fairman, President 575.936.6290

Lee Pattison, Secretary

Jeff Johnson, Treasurer

Cristal Cruz

Carol Felsing

Sherry McDaniel

Kellye Stimpson

STAFF 575.936.4095

Sherry McDaniel, Resource Center Manager

Sandy Milo, Community Meals Manager

September 21, 2021

Addendum to Special Use Permit/Zoning Variance request by Deming Silver Linings

Dear Council members,

Following the August 2021 Planning Commission meeting during which our request was not approved for recommendation to the City Council we wish to present some corrections of the premises set forth at that meeting.

From the minutes of the Planning Commission August 16, 2021 meeting, agenda item #4 states:

**Request for a 1-5 years extension on a Special Use Permit by Deming Silver Linings to Operate a Homeless Shelter at 212/214 S. Copper Street.**

Mr. Canfield presented that the applicant, Deming Silver Linings requested to extend a Special Permit Use for an additional 1-5 years. This would be the second extension requested, the approval of the permit was granted on November 12, 2019 for 6 months. On June 16, 2020 City Council granted the first extension for a year, allowing more time to come up with a sustainable plan.

Staff reviewed the request and had some concerns, the housing of the homeless in tents was a temporary solution a year and a half should have provided plenty of time to find a long-lasting and suitable location.

Further in the minutes:

"Commissioner Orquiz questioned if they are planning to come before the commission to extend the permit every 1-5 years because they did not seem to have any goals of moving to a permanent place. The City Clerk explained that the City Council Meeting held on June 2020 approved their request with the conditions of seeking a permanent location and that's where the time frame came into place. Commissioner Orquiz stated that Margaret did not think that was the case. Margaret requested to see a copy of the City Council Minutes held on June 16, 2020."

**Clarification by Silver Linings:**

1. *Our request was not to operate a 'Homeless Shelter' but to provide temporary housing for homeless individuals who agree to terms we set forth.*

2. *Staff review implies that Silver Linings was seeking a different location for this temporary shelter and that we failed to do so. An agreement or stipulation that Silver Linings would move is nowhere in the minutes of the City Council Meeting on June 16, 2020.*

**From the minutes of City Council Meeting held June 16, 2020:**

"Ms. Gentile, City Planner, addressed Mayor Jasso and Council and stated the case before them was for an extension of a Special Use Permit for Deming Silver Linings to continue temporary housing for persons experiencing homelessness at 214 S. Copper Street. Ms. Gentile stated that this case was approved for six months back trial in November. She went on to say that it is now up for their consideration on whether or not they wish to approve the Special

*Use Permit or whether or not they wish to approve with a conditional approval or time-limited approval. Councilor Sanchez asked if they are asking for a permanent extension or another temporary extension. Mr. Sera stated that the Special Use Permit can be authorized for a permanent, conditional, or time-limited approval, and that the decision is completely up to the Council."*

*"Councilor Sanchez asked if they were actively looking for a place that is a little bit bigger or if they are trying to satisfy their services with what they have now. Ms. Fairman answered that they are definitely, always actively looking for other locations. However, she reiterated that they are a volunteer agency and they do get donations and have received some grants, but if they are looking at a bigger location that's able to serve people that aren't clean and sober, they need some help."*

*"Ms. Fairman asked if she could respond to the question of the location. She stated that since they have opened at this location, they have not stopped looking for other options. She went on to say that they have identified several possibilities. She stated that one was the old Kmart building, which now the City owns. She mentioned that another possibility is the Armory, which she would love to pursue. Ms. Fairman stated that another option was the Deming Headlight building and the old LULAC building. She stated that they have looked into other options, but most of those options cost money, more money than they have and that's why they keep saying to the City and County that they need some help, some financial help. Ms. Fairman stated that it's all fine and good to talk about it and that there are some better places, but they need some help finding them. Councilor Cruz stated that the only issue he has with all the other locations, is that there are residences around them. He stated that even if they choose another one of the mentioned locations, he feels they would still be back here with a different group of people discussing the same issue of location."*

*"Mr. Sera stated that what is on the table is whether the Council would like to approve the special use permit, if not they would try to help them find a different location."*

*"Mr. Sera noted that he feels that between the City and the organization, they will not be able to find another feasible location for them within the 6 months. He noted that the residents who are there, want to be there and want to be drug free, so they should not stop serving them. He stated that they have been doing a good job and seem to be getting better every day."*

*"Councilor Cruz moved to approve the request for an extension of the special use permit for Deming Silver Linings to continue temporary housing for persons experiencing homelessness at 214 S. Copper Street for one year. Councilor Sanches seconded the motion; motion carried."*

*"Mr. Sera stated that in light of what just happened, he is going to task the staff to meet on a regular basis and try and figure out a long-term solution for this location in order to help Margaret and her staff. He asked Margaret to join the meetings. He stated that he appreciates Council extending this a year, because he does not have time to figure this out in 6 months. He noted that he will make a dedication to the Council because he understands that it is their priority."*

**12. Quasi-Judicial Public Hearing: To Consider a Zoning Amendment from Single Family to Multi-Family Dwelling for Property Located at 515 S. Diamond Street, within the City Limits, Requested by Kevin Steele**

Mayor Jasso conducted a quasi-judicial public hearing to consider a Consider a Zoning Amendment from Single Family to Multi-Family Dwelling for Property Located at 515 S. Diamond Street, within the City Limits, Requested by Kevin Steele.

Mayor Jasso asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, addressed Council stating that the applicant, Mr. Kevin Steele is requesting the approval to rezone from A Single Family Dwelling to B-1 Multifamily Dwelling, for the property located at 515 South Diamond.

The family wishes to sell to settle the estate, which currently has two dwellings on the single unit lot that were built in the 60's, according to the applicant. The appraisers cannot produce an appraisal to satisfy the lender. According to the applicant, the bank will not loan on single family use with two dwellings on the lot.

Current Zoning is "A" Single Family Dwelling. The primary residence currently straddles lots 17 and 16 which may result in issues should the applicant wish to sell the guest house at a later date. During the Planning and Zoning meeting on August 16, 2021, the Commission recommended the approval of the rezoning request.

Staff has reviewed the property and the main concern has been addressed with the realtor/agent for Mr. Steele, which is that the primary residence straddles lots 17 and 16. They've been informed that this may have an effect on future plans to sell the guest house. Staff has no other objections.

Mayor Jasso asked if staff or Council had any questions.

Mayor Jasso asked if the applicant would like to make a statement. Mr. Christensen stated that there are many of these houses and appraisers are not able to complete the appraisals because the banks will not lend on them.

Mayor Jasso asked if Council had any questions for the applicant.

Councilor Cruz asked if the banks do not lend because they are able to live in the houses as a separate residence. Ms. Christensen confirmed.

Mayor Jasso asked if there were any affected parties that would like to speak. There were none.

Mayor Jasso asked if there are any registered parties that would like to cross-examine any party having already given testimony. There were none.

Mayor Jasso closed the public hearing and asked for Council's decision.

Mayor Pro Tem Milo motioned to approve the zoning amendment for 515 S. Diamond, as presented; Councilor Rodriguez second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye
Councilor Rodriguez	Aye



**13. Quasi-Judicial Public Hearing: To Consider a Special Use Permit for Pecos Valley Production to Operate a Proposed Cannabis Cultivation and Production Establishment at 1319 E. Pine Street, within the City Limits of the City of Deming**

Mayor Jasso conducted a quasi-judicial public hearing to Consider a Special Use Permit for Pecos Valley Production to Operate a Proposed Cannabis Cultivation and Production Establishment at 1319 E. Pine Street, within the City Limits of the City of Deming.

Mayor Jasso asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, addressed Council stating that the applicant, Pecos Valley Production, is requesting a Special Use Permit, as required by Ordinance 1303 which requires a special use for all cannabis operating businesses, to be located at 1319 East Pine. The applicant plans to operate a medical cannabis cultivation and production establishment. The proposed location will also include greenhouses for growing purposes.

Current Zoning is "D" Industrial which complies with the use requirements as passed by City Ordinance 1302 (attached for reference).

During the Planning and Zoning's special meeting held on August 30, 2021, the request for the Special Use Permit was recommended to be approved, with the condition that they obtain a NM State Permit for the address, by the New Mexico Cannabis Control Division.

Staff has reviewed the property and has no objections to the approval of their request, with the condition that a NM State Permit is approved for the address, by the New Mexico Cannabis Control Division.

Mayor Jasso asked if staff or Council had any questions.

Mayor Pro Tem Milo asked if the building used to be Proper Foods and what is growing there now. Mr. Camfield stated that the applicant will lease the building. Mr. Sera stated that the owner is Scott Adams and that the original plan was to grow hemp.

Mayor Jasso asked if the applicant would like to make a statement. Mr. Salgado stated that he plans to use the facility for production purposes if the special use permit is granted.

Mayor Jasso asked if Council had any questions for the applicant.

Mayor Pro Tem Milo asked if the tents in the back of the facility will be used. Mr. Camfield stated that the applicant is looking to lease the entire property. Mr. Sera stated that there will be a business license submitted and the zoning is approved in which to do so.

Mayor Pro Tem Milo asked how many persons would be hired. Mr. Salgado stated they anticipate to hire 20-30 employees.

Mayor Pro Tem Milo asked if it would be operated year round. Mr. Salgado confirmed adding that they are only allowed to sell within the State of New Mexico and stated that they have 12 dispensaries within New Mexico.

Mayor Jasso asked if there were any affected parties that would like to speak.

Mayor Jasso asked if there are any registered parties that would like to cross-examine any party having already given testimony.

Mr. Dominguez stated that he is against the operation because it will increase crime rates.

Mayor Jasso closed the public hearing and asked for Council's decision.

Councilor Cruz motioned to approve the special use for the Operation of a Proposed Cannabis Dispensary applied for by Pecos Valley Production to be located at 1319 E. Pine Street; Councilor Topham second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Mayor Pro Tem Milo	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye
Councilor Cruz	Aye

**14. Administrator's Report**

Mr. Sera addressed Council reporting on the following items.

- Grant funding is being sought to expand Trees Lake west of the location with an inflatable park which will be an approximately \$750,000 project. Grant writing is being done by Stephanie Sanchez, which is doing a great job.

Mayor Pro Tem Milo mentioned that he's received comments that the cemetery is looking good.

**15. Closed Session: To Discuss the purchase, acquisition or disposal of real property, Pursuant to NMSA 1978 Section 10-15-1 (H) (8) of the open Meetings Act**

Mayor Pro Tem Milo motioned to go into closed session, pursuant to NMSA 1978 Section 10-15-1(H)(8) of the Open Meetings Act; Councilor Rodriguez second the motion; motion was approved by the following roll call vote:

**ROLL CALL VOTE**

Councilor Cruz	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye
Mayor Pro Tem Milo	Aye

**16. Open Session: Motions if any**

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

**ROLL CALL VOTE**

Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye
Councilor Rodriguez	Aye

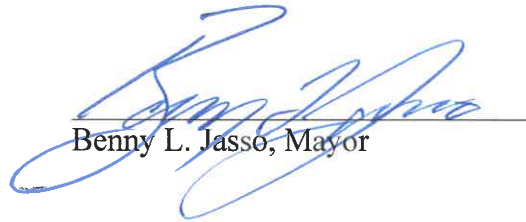
Mayor Jasso stated that there were no motions made during closed session.

**17. Adjourn Meeting**

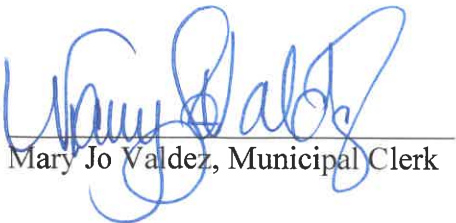
With no further business to discuss, Mayor Jasso entertained a motion to adjourn the meeting. Mayor Pro Tem Milo motioned to adjourn the meeting; Councilor Rodriguez second the motion; motion carried unanimously. The meeting adjourned at 8:36 p.m.



**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

ATTEST:

  
Mary Jo Valdez, Municipal Clerk