

**CITY OF TUCUMCARI
CITY COMMISSION
Work Session Notes
January 14, 2016**

The Tucumcari City Commission met in a work session on Thursday, January 14, 2016 at 5:00 p.m. in the City Commission Chambers. Members present were John Mihm, Ruth Ann Litchfield, Robert Lumpkin, Amy Gutierrez and Rick Haymaker.

City staff members present were: Jared Langenegger, City Manager; Doug Powers, Assistant City Manager; and Angelica Gray, City Clerk.

Discussion of Public Meetings regarding Rededicating ¼ percent Gross Receipt Tax

Mr. Langenegger stated that the Commission needed to have public meetings to let the citizens know about the nuisance ordinance and about the local gross receipt tax and to let them know about the work force development as well. He stated that he would like to have a public meeting prior to elections in order for the voters to get informed about the local gross receipts and allow them to ask any questions they may have. The absentee ballots go out on January 26th and early voting starts on February 10th. He stated that he would like to have a public meeting before February 10th. Mr. Langenegger stated that he would like to have two meetings one at the Del Norte Center and one at the Convention Center. He is working on a presentation to explain things but he would like to have the Commission present at both meetings to answer any questions and give their input.

Mr. Langenegger asked for input for meeting dates and times. Mayor Pro Tem Litchfield stated that she doesn't think many people would attend if it was on a weekend. Mayor Lumpkin stated that he believes a weekday would be best also but there are many upcoming events that are causing meetings to be rescheduled. Mayor Pro Tem Litchfield stated that Tuesdays would work best for her. Commissioner Gutierrez stated that Tuesdays would also work for her but she could not do Wednesdays.

The Commission agreed on having a public meeting at the Del Norte Center on February 2nd at 5:30 p.m. and February 9th at the Convention Center at 5:30 p.m.

Discussion regarding Nuisance Ordinance

Mayor Lumpkin stated that he wasn't in favor of every aspect of the ordinance but from presentations and discussions unity means a lot and it was important for everyone to be on the same page. It is either all or nothing; it all comes in a package. After applying this he's had a lot of push back and also a lot of people come to him with ideas. He stated one thing he has looked at is how each point or component of the nuisance ordinance works towards the objective of cleaning up Tucumcari. In a nutshell the objective is to clean up Tucumcari and get some of the burnt down buildings taken care of such as the Sands Dorsey and the hotel on Tucumcari Boulevard, they are a danger and also eyesores. We are talking about every vacant building. Some of the vacant buildings in Tucumcari are kept they are clean and painted but we are asking them to get a nuisance ordinance license. If someone has gone out of their way to make sure they meet the standards and have gone through the trouble of making sure their property stays clean and taken care of.

Mayor Pro Tem Litchfield stated she has been contacted by realtors because some of the buildings are for sale however; they are required to get this license, which is \$300. In addition, they are upset about the letter they have received because their buildings are vacant and for sale so they are being kept up in order to show them.

Mayor Lumpkin commented that the license isn't just \$300. There is a \$50 administrative fee and a \$300 charge. The second year is \$500 and the third year is \$1,000 and possibly another \$50 fee. He stated that his point was that money that the City is charging these owners could be used to clean up the buildings but these people are long time residents of Tucumcari, they have done a lot and spent a lot of money on the town and have up kept their buildings but we're still charging them. They're seeing this fee as a punitive measure. If anything these people should be rewarded for doing what they should be doing and keeping up their property. Some of these buildings are for sale or rent and they are keeping them up and they shouldn't have to get the licenses, if the property is kept up why can't we just let them continue as they are? Once they get to the point where they aren't being kept up then we can look at something else. Mayor Pro Tem Litchfield commented that she has spoken to Mr. Langenegger about this and he said what if someone just went and put a for sale sign up. She stated that she thinks if it is listed with a realtor then that makes a difference.

Mr. Langenegger stated as far as appearance he understands, but you don't just make bad drivers get a driver's license, you make everyone get a license. You can't just make some people do something and not others. That's why the definition of a vacant building is so important and he agrees that the definition for a vacant building needs to be reworded. In that rewording we added a criteria of having utilities connected, which wasn't in the definition previously and without that, there were several places that weren't necessary businesses or residences but were being utilized, some as hobby shops and storage. These buildings had utilities and were being maintained but previously, the way it was written they still had to have a license but adding the utilities eliminates some of those properties. As far as having it for sale this license isn't just to take care of the bad buildings. This license and this ordinance are to ensure that the buildings that are being maintained now continue being maintained in the future. It gives the City the ability to inspect the property and to work with the owner to make sure that they meet the standards that we expect for it to be safe, clean and not present a nuisance to the City. If we say yes your building is okay and we aren't going to require a license then we don't have anything to come back on them with. If we don't have a way to monitor them we have no way to make sure it doesn't become a nuisance. As far as the escalating fees, we need to change that to where it is just a flat fee of \$300 a year. Initially, we talked about an escalating fee to try and put pressure on them to do something with it. However, after speaking to Mr. Knudson about it he said it probably wasn't a good idea to do that and just to have a flat fee. If we have a \$300 flat fee every year that covers the City's administrative costs for issuing the licenses, doing the inspections and patrolling the properties.

Mayor Lumpkin commented that he has taken that all into consideration and doesn't want to upset anyone but people need to understand that there are people in Tucumcari that have worked hard to maintain their building and all of a sudden we have an ordinance that states they owe the City \$300 for one year and to renew \$350. He stated that he is not in favor of the license at all. He stated that he wanted to make it as easy as possible. If they clean up their property and make it look good isn't that the objective? Mr. Langenegger stated that the objective is to make sure the buildings don't deteriorate and become a hazard in the future; this is to ensure we don't have more nuisance buildings come up in the city. The building might be fine but if we don't monitor it and it remains vacant and if it falls down what would happen? Mayor Lumpkin stated if it isn't a problem right now but in the future it could eventually deteriorate to the point where we have to do something about it then we will take action.

Mr. Langenegger stated that would mean waiting until there is a major issue to address it instead of being proactive. Mayor Lumpkin stated that he is trying to make this better for the people of Tucumcari. Mr. Langenegger stated that this was the point of this ordinance and it was agreed upon and passed. Mayor Lumpkin stated that he thinks we went overboard with the ordinance and he was going to ask for a special meeting to discuss each point on the ordinance and try to make it as feasible as possible. The building in question can be cleaned up and boarded. Commissioner Gutierrez commented why do we want another boarded up building, they are eyesores.

Mr. Langenegger stated that the nuisance ordinance allows for us to collect for our legal expenses, demolition expenses by filing liens on any property. We will legally pursue collecting reimbursement for the City by any means possible. This should be done because taxpayers should not expend money to tear down properties and if we have to do that we should be reimbursed. Mayor Lumpkin stated that the bottom line is an owner either complies or we're taking their property and however much of the property we need to take to pay for it. He stated this is too much for him and he doesn't want to be a part of it. He doesn't believe it is the right thing to say to people. He doesn't know if that is within any kind of ethical rights to say the owner either complies or their property will be taken to make up the difference. We might be able to win in court but we are still saying you either comply or your property will be taken.

Mr. Langenegger stated that since the ordinance has been implemented there have been several properties that have been vacant abandoned buildings that are a public hazard and are being taken down which is what we are asking people to do. For the people that are following the ordinance and doing what we ask them to do how can we go back and now say they no longer have to. They have already have gone through the expense and done what we've asked them to do, followed the ordinance and been in compliance and now for us to go back because someone else doesn't like it isn't right. Mayor Lumpkin commented that those buildings needed to be taken down but if the City goes in and takes it down and that property is not worth what we spend on it then we can take that property, there has to be a better way. This discussion is one that we need to have and see what we can do other than saying "do what we say or we'll take your property". Commissioner Gutierrez stated that the property wasn't boarded up and putting boards on it would make it look worse. They are taking the initiative to take care of their property and finally clear out their area. She stated that she agrees that we can't go back on what we've already done. Mr. Langenegger stated that if we don't say that we're going to come after you if you don't comply then they won't comply. You asked for an ordinance with more teeth and this ordinance has more teeth. It's enforceable and people are complying. If were to go to them and say do this but if you don't there's no consequences nobody is going to do it because it's no expense to them. Mayor Lumpkin commented the properties that don't need to be torn down are we going to continue to make them get a license. Mr. Langenegger stated yes we are not telling anyone they have to tear down their property, we are telling them if they have a vacant building it presents a public hazard.

Mayor Lumpkin stated that buildings have been torn down in Tucumcari since he's lived here. When we first mentioned the ordinance they started boarding up some buildings and cleaning them up. Word of mouth and letters do some good but if someone boards up a building and it doesn't look good we should tell them to go back and fix it and make sure there is an aesthetic value. He stated he believes we can have an ordinance that is more ethical than the one that is in place now. Mr. Langenegger asked what exactly is unethical about the current one. Mayor Lumpkin commented the unethical part is that we are saying if you do not comply we will take your property. Mr. Langenegger stated that every law has a consequence, if you do not comply with the laws that are enacted there is a consequence. So what

exactly is unethical, because when you say unethical I don't like that, that means that it is morally wrong. What is morally wrong about having a consequence for an illegal action? Mayor Lumpkin stated strike unethical because he doesn't want anyone to get upset but the ordinance is way too strong. When we first started talking about insuring buildings I understood that we were looking at insurance in case it fell down or was burned and the owner needed to have enough insurance to clean up the mess but that was too expensive and we were already looking into amending the insurance to where it doesn't have to be a comprehensive but a liability that would only be used in an event of an accident. Mr. Langenegger stated that isn't an amendment it was already written, he misunderstood what other ordinances said but it does just require liability insurance. Mayor Lumpkin stated that he doesn't see where liability insurance goes towards the objective of cleaning up Tucumcari. Mr. Langenegger stated that it goes towards the objective by making it less of a hazard to surrounding property owners. For example if the Sands Dorsey building had liability and fire insurance there would have been insurance to pay for the repairs.

Mayor Lumpkin stated that he still was going to ask to go over this point by point and make sure each of the components are less burdensome and work more towards the objective. We can look at this and see if we can make it not quite so burdensome. There are less responsible tenants and then there are more responsible tenants but this affects everyone the same. We have buildings that are for sale and rent that are cleaned up but they are still being charged for a license. Mr. Langenegger stated that the buildings that are a hazard and are falling down don't qualify for a license, so we either have to bring them up to the standards that qualifies them for a license or tear it down. Mayor Lumpkin stated that he is opposed to the license on buildings that are kept and to the people that have kept up their property and those that are trying to rent their property. This license didn't exist before and they have not broken any compliance other than not buying a license and they are keeping their property up.

Mr. Langenegger asked for a suggestion on how to declare a vacant building a nuisance. Mayor Lumpkin stated that the ordinance has conditions of a building that doesn't comply, the buildings that you are charging a license do not meet those conditions. Mr. Langenegger commented that in order to obtain a license you have to meet those conditions. Mayor Lumpkin stated that if they have met them they shouldn't have to buy a license, if they haven't met them they should tear the building down and use that \$350 to tear it down or clean it up rather than pay us a fee. Let's let them use that money to get what they need done. We can send them a letter and say we are asking you to clean up your property and if you don't we will place a lien on your property. Commissioner Gutierrez stated that those letters already went out and nothing was ever done.

Mayor Lumpkin stated that we should only take a lien against the properties that are being cleaned. Mr. Langenegger asked how we should continue this cleanup process if we place liens on properties that are deteriorated and abandoned, we will never recover the money that we spent to demolish them. This city cannot afford to continue to tear down other people's buildings, if we don't hold them accountable and don't have a process or means to collect the funds back from those people who own the property and are responsible for it then we won't be able to clean up the City and we won't be able to move forward with this. We will take care of a couple then we will run out of funds and that'll be it. Mayor Lumpkin stated what if the properties that do comply with the ordinance do not have to buy a license, they are different and can be easily described because their property meets the standards and the properties that we have to put liens against additional properties if needed don't meet the ordinance. Mr. Langenegger asked why we would issue a license for a building that doesn't meet the standards. Mayor Lumpkin stated we would tell them to clean it up and there is no point of having a

license. He stated that the licenses are not fair they take away money that the owners could use to clean up their properties.

Mayor Pro Tem Litchfield stated that the problem with not issuing a license to a cleaned up property would be the owners could say the City is playing favorites. She stated she isn't sure how she feels about the licenses because there are people that have gotten their properties cleaned up but they are trying to sell it and it is upsetting to them because they have to pay extra money. They shouldn't be able to say their property is cleaned up when they just board it up because that doesn't look good. Mayor Lumpkin asked what if they were boarding it up but the boards were cut nicely and were painted. He stated no licenses at all because it is taking money away from the people that need it to tear it down or fix it up and you are taking away additional money from people who have already fixed their property.

Mr. Langenegger stated the reason for the licenses is you can't declare unlicensed vacant buildings a nuisance and in order for us to enforce something we have to declare it a nuisance so if we do away with the licenses we can't declare buildings that don't meet the standards a nuisance but it would be very difficult and there will be people saying that we are playing favorites. It has to be enforced consistently it either applies to everyone or no one. Mayor Lumpkin asked how the license will create leverage their property would be leverage enough and the license is just an extra charge. Mr. Langenegger stated without the license how do we have the right to go onto a property and inspect it and the contents and make sure it is not a fire hazard or a hazard to public safety. The license sets up a process and the City is expending money to do these inspections and we should be reimbursed for that. We can't continue to do everything for free.

Mayor Lumpkin stated that the bottom line is they comply or we will take this property and additional properties. Commissioner Gutierrez asked wasn't that what we did with Sands Dorsey? Mr. Powers stated that he checked and the owner of Sands Dorsey only owed a trailer in addition to the building. Commissioner Gutierrez stated but we went as far as looking into it so it was done. Commissioner Mihm stated that with most of these properties we won't retain the money that we expend when we get stuck doing it. The bottom line is the nuisance ordinance and the licensures for the other vacant buildings are going to help us defer some of those costs. The cost of the program is a lot we have a new code enforcer that we have to pay for. Mr. Langenegger stated that people have to have a benefit for registering and having a license because in the process that is written for issuing licenses and filing the licenses a part of that is giving a list of vacant buildings to the police department and the fire department so during their patrols they can incorporate that list and do inspections of those buildings to ensure that they are safe and don't pose a hazard. A building owner that has vacant building gets a benefit because they get an extra set of eyes on it. Mayor Lumpkin stated that buildings can be listed with the City with who to contact in case that building needs to be cleaned up or is in abuse and they can be listed without that license. Mr. Langenegger stated yes but at an expense that the City should be able to recover.

Mayor Lumpkin stated but we are talking about people that may not be wealthy that own property and may not have the money to clean it up and we are talking about taking away more than that property to pay for it and then in addition we are charging them for a license. He stated that he is trying to do the right thing for the people of Tukumcari and he feels that there is a difference between a building that is being kept up and one that isn't. He believes they can be treated differently and that they don't all need a license and there is no need for a license at all. That money could be used to clean up the property. It could be seen as more of a positive reinforcement than a negative. There are large blocks of bushes and

trees all around Tucumcari. It would be very difficult to say remove all the trees I would rather say we clean up the area close to the fences and streets and make sure the trash is picked up. We are talking about cleaning up Tucumcari to make it presentable to people from out of town but most people won't look at a block of trees negatively. Twenty-five hours was spent on cleaning up a block and that block does look better but that block is not completely covered in trees and there are other places that are. He suggested that we just trim and mow around the trees but make sure they are trimmed by the streets. We can clean up and mow around the trees and not say all trees have to be cut down to a certain height. Mr. Langenegger asked what would be the purpose, why wouldn't we want them to clean the entire lot. Mayor Lumpkin stated because of the expense. A lot of trees aren't ugly and we can work with the owners to make it not so burdensome to clean it up. We need to rearrange some items within the ordinance. He stated that he will be asking for a special meeting and he wants the citizens to see that he is trying to make this as easy to comply with as possible but still met the standards to clean up Tucumcari. I think we can do that without the license and without cutting down trees and by being less restrictive with vehicles in someone's back yard. We are infringing on people's rights especially when we are saying comply or we will take all the property we need to, to pay for it.

Mayor Pro Tem Litchfield stated during the special meeting we would just go over item by item and see what we can do to lessen the burden. Mr. Langenegger stated if we are looking at going line by line through the ordinance to make it as easy as possible for people to comply no matter what is done with the ordinance we are going to have people that are upset, people that don't agree with us and if our goal is going to be to go through it and try to make people less upset we aren't going to meet that goal because we can't please everyone. Whenever you have an ordinance you're enforcing there will be people that are upset that feel that it isn't fair but we aren't putting the ordinance in place for those people, we are putting it in place for the good of everyone. The more we back step and ease up the less things will get done and we will end up in the same position we have been year after year after year. Commissioner Mihm stated that the people that are happy about implementing this ordinance will be the ones that are unhappy if we change it. Mr. Langenegger stated when he got this job he had numerous people tell him Tucumcari use to be a blue ribbon city everything was so nice and neat, why can't we be like that again? The reason we can't be like that is because we keep backing off, we don't enforce it and we don't require people to clean up.

Mayor Lumpkin stated that he doesn't think the license is necessary. The letter that was sent out to the people is going to motivate them to do what we ask. Taking the property that we are cleaning up is also going to motivate them to do what we ask. Yes, we are going to be out some money. He stated that he doesn't think the license is a motivator and it won't give us enough money to make a difference. We don't need to be concerned about solid mesquite and trees, if people are working on vehicles in their back yard it shouldn't be a problem.

Discussion of Renewal of Contract with Kyle Harwood, Water Attorney

Mayor Lumpkin stated that right now Mr. Harwood's contract will soon be up and we have an attorney on a retainer that works for us and we don't have an issue that requires a water attorney and if we did we could get one very quickly. Mayor Pro Tem Litchfield stated that they had discussed this before and the Commission decided that they were just going to let the contract go. Mayor Lumpkin stated that was the discussion and it was on the agenda for tonight's meeting.

Submitted by:

Angelica M. Gray
City Clerk