

CITY OF TUCUMCARI
CITY COMMISSION
Work Session Notes
January 26, 2016

The Tucumcari City Commission met in a work session on Tuesday, January 26, 2016 at 3:30 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 regarding Nuisance Ordinance

Mayor Lumpkin stated that he asked for this special meeting pertaining to the nuisance ordinance. He stated he put together a plea and a description of what he thought would be a good idea.

Commissioner Mihm stated he had concerns on adapting the ordinance but before they began discussing they needed to see if there was a consensus and if anyone else wants to address this ordinance or leave it alone before delving into a meeting discussing sit. He stated he understands that the ordinance is aggressive but he has had people telling him if the City does not enforce this after they started it they will come after us in another way. He stated it is important that was a general consensus before we discuss dismantling and rebuilding this ordinance. Commissioner Gutierrez stated she agrees with Commissioner Mihm because we said we were going to be aggressive and we voted on it. There have been people who have heeded the warning that was sent out and have taken the necessary steps to clean up their properties and now to back track we may be hurting ourselves in the long run.

Mayor Lumpkin stated that his discussion wasn't about cleaning up delinquent properties it was about properties that aren't delinquent. This could make it a lot easier on the City of Tucumcari. It will not change the direction or the aggressiveness of the ordinance pertaining to diligent, dangerous or unsecured properties. We have a lot of buildings in town that the ordinance is going to affect. What the ordinance was intended to do was to take care of delinquent, unsafe, unsecured, and trashy buildings that need to be fixed, torn down or clean up. He stated that what he is purposing won't pull the teeth out of that particular part of the ordinance but it will make it better for the responsible people in Tucumcari. There are buildings in Tucumcari that will have to get a license but they are well kept, the owners have been responsible, they have cleaned up around their buildings and the buildings are taken care of those restrictions and mandates are making it harder for people to trade and sale those buildings. We all agree there should be an ordinance to take care of the delinquent properties. We will not be backing away from the ordinance but amending it so that buildings that don't need to be torn down will be cleaned up and the people that have been responsible will in a way be rewarded for their responsibility not asked to get a license or give up property rights. The restrictions we've put on the well kept, cleaned up properties are making it harder for them to be sold and making them more expensive. If someone was going to buy one of these vacant buildings and open a business they would be a little more reluctant knowing that building has a burden on it, they are going to have to pay for a license for that building and they would have to insure is as well. He stated that we wanted to talk about how certain things can be lessened for the responsible buildings owners while still being aggressive. He stated that he wasn't trying to sell anyone out or throw anyone under the bus but he is a citizen of Tucumcari and there are certain rights we have to observe but we can still have a good

ordinance. If the property is properly coded we don't need the license or the fee at all for the building owners that have been responsible. Upon Mayor Pro Tem Litchfield's request Mayor Lumpkin used a property located east of Kmart as an example he stated that the owner was leasing the property to man that owed a motorcycle shop. The property is well kept and clean. The owner is trying to improve the building or sell it. The property is in immaculate condition and is for sale but we're putting a burden on that building. If someone wants to buy that building they will also have to put liability insurance on it. Liability insurance doesn't help the City. Insurance came up when Sands Dorsey burnt, if the owner would have had insurance on the building then the people of Tukumcari wouldn't have had to pay for it, so we looked into insurance. We found out that a comprehensive type of insurance for that type of building is extremely prohibitive and very expensive. That part changed we went from an insurance that would pay for the building if it burned to liability. Liability is only going to cover the neighbors if the building happens to blow up or if someone happens to be in the building and a wall falls on them or if someone gets hurt. Liability insurance is not for us to dictate to someone else. We're telling people they own that building but we're making them get liability insurance, if they want liability insurance they can pay for liability insurance if they don't want insurance then it's their liability. The owner will be liable if something were to happen not the City of Tukumcari and not the citizens of Tukumcari. There's a lot of properties that are in good shape the owners have been responsible and have kept up the properties but we're telling them they still need to buy a license and the license is going to cost \$350, \$550 the second year and \$1,050 the third year if the ordinance is not changed, but they are also required to have liability insurance. Why? They've done what we've asked them to do, their buildings are nice and are safe. Let's say the properties become derelict then we send them a letter to clean it up. If they don't clean it up we go through the same process we would with a derelict property. The license really has no value, in the banking business we call that trash fees. It's a fee that accomplishes nothing. He stated he brought this up to a person that didn't have to pay these fees and they said we could use that money to enforce the ordinance. We're taking money away from the responsible people to clean up for the irresponsible properties. The people who own the buildings that are kept up why are we messing with them? We have plenty of derelict properties. We are also spending time and resources restricting, governing and enforcing buildings that have been kept up. I've been asked what it they start getting bad. If they start getting bad we will correct it. We can correct it with a letter, if the letter doesn't work we correct it with fines, if the fines don't work we end up going in there and cleaning it up and putting liens against the property. That's the process for the derelict properties but he wants to talk about giving the people a break and rewarding those that have been good citizens and them having to pay for their properties that they've kept up is unfair. It was mentioned that if we don't enforce on certain people then others can say it's unfair. He stated he's talking about properties that are kept up. It's very easy to distinguish between a property that is well kept and a property that is unsafe and unsecure. We aren't comparing nice properties to delinquent properties, delinquent properties need to be cleaned up and he hasn't found anyone that disagrees with that. We're not backing off on that one bit the objective of this ordinance originally was to clean up Tukumcari, clean up delinquent buildings, burnt out buildings and dangerous buildings and clean up vacant lots that are not being kept and taken care of. There are vacant lots that are full of weeds and are completely covered in mesquite and have trash in them. He wants to talk about the people that have been good citizens and there is quite a few. They haven't broken any rules or ordinances and they've been responsible but we're saying they have to have a license on that empty building and I don't see a need for it. If we're worried about them becoming derelict properties if it happens then we react and take action. Some larger communities must have an ordinance where all boarded up windows must be painted, and they look nice but he doesn't know if that is within the rights. He stated that Mayor Pro Tem Litchfield mentioned at the last meeting that boarded up buildings look bad and he agrees but maybe painting them will make it look more presentable. If we require all boarded up buildings to have painted boards it won't only look

nicer but the paint will make the boards last longer. He stated that point he is making is we are creating a hardship on responsible citizens that have taken care of their property and we're adding a hardship to them. If we need the money for revenue to enforce this ordinance there are others places we can get the money from but taking fees from the people that are taking responsibility for their property and using that money to enforce or clean up other properties is very unfair. Some have done a good job and are very responsible and they need to be rewarded for it. He stated that he is prepared to talk about this in an open meeting and doing away with this license and the registration fee for those that have done a good job and he would like to get a motion to bring this up for a vote.

Mayor Pro Tem Litchfield suggested discussing each matter one at a time. Commissioner Haymaker asked Mr. Langenegger to bring up the section on vacant buildings, he stated that they all agree on broke down buildings. The discussion right now is on section 7-09-030 vacant buildings. He stated they will start with the definition and go from there. Commissioner Haymaker read the definition of a vacant building. He stated why would we want to promote buying buildings and leaving them empty even if they were in perfect shape. Mayor Lumpkin stated because of commerce, if people want these buildings for sale and someone wants to buy them they're not buying to leave it empty but to speculate being used but those buildings are harder to sale if they have this burden of the license, insurance and registration fee. If the building is in good shape why are we worried about it? If the building or the property becomes bad then we enforce and activate the ordinance to get it cleaned up but as long as it's in good shape it does not need to be acted on or insured. He stated he would like them to have building insurance and a lot of them already have insurance so if it were to burn it is paid for but a lot of them don't because insuring a vacant building with comprehensive insurance is prohibited and very expensive. We changed the insurance to just require liability which is less expensive but is still expensive.

Commissioner Haymaker stated that buildings that people are able to buy, particularly on the Boulevard or Main Street, are able to let them sit uninsured with no activity and no one being able to occupy that building. There were a couple of businesses that were bought out by competitive businesses and nothing else was allowed to be put there so tourists drive up and down the boulevard and they see an empty business and they're being directed to go down the street and there sits a building not being used or insured, that is a problem. He stated that a gentleman that has an office in Texas bought a building across the street from him for \$60,000 at an auction and he called this gentleman and he wants \$175,000 for the building. There are now homeless and vagrants living in the building and he personally has to mow the lawn. Mayor Lumpkin stated he understands but the license will not affect that. Commissioner Haymaker stated that it does because it creates a burden on the person who is doing that, it makes the building less desirable. He stated that no one would want to buy a building if they had to pay for it to sit there. Mayor Lumpkin stated that if the owners don't keep their property safe and let it become derelict then we take action, the license on it doesn't affect that building. We're talking about insurance that will replace the building in case it burns the insurance but the ordinance only requires a liability insurance policy.

Mr. Langenegger stated that liability insurance for a building that is less than 24,000 square feet is \$600 per year, this would apply to almost every building in the City. They're able to get a million dollar policy for under \$600 a year. He stated that he spoke to Mr. Wiegel and he said that insurance is available to anyone that is interested. The insurance is not hard to get and it protects neighboring properties if they are to suffer damage and also anyone who is going through there, if there were children playing in the building or if anyone got hurt, it protects the owner from liability and also the people who are around them. This insurance is available to anyone unless it's an attractive nuisance, so

unless it's a building that's falling down or not being maintained then they will not be able to get that insurance. Mayor Lumpkin stated if the person who owns that building wants to insure it then they can. They can do so for \$600 but that would be up to them. The City is not liable if someone gets hurt in the building and either are the people of Tucumcari. The building owner is the only one liable if that happens so it should be up to them if they want to insure it or not. That insurance does not cover that building in case of a storm, tornado or fire. Let's say that building was kept up and they don't have a license but it looks real nice, how is that hurting Tucumcari? Commissioner Haymaker stated because no one can buy property and operate a business bringing in gross receipts and helping the City's finances, it's just sitting there empty. Mayor Lumpkin stated there are plenty of buildings for sale.

Commissioner Haymaker stated that there are several buildings that are for sale. He stated that his daughter and her husband called seven properties and they're asking too much because the casino might come to town. It's encouraging people to squat on property and not letting Tucumcari open up and be available to the people that will come in, insure and take care of a building. Living in a town where you can have buildings without insurance, I've never even heard of such a thing and I didn't know that was possible.

Commissioner Mihm stated that he bought property and the laws might have changed since then but he has owned his buildings for four years and when he bought them he was able to get a reduced rate on the insurance because it was occupied. The other one cost some money and he didn't anticipate it costing that much but he had to find the money because he had procured those buildings. He stated I bought insurance on them so if they burned I could either have them removed or afford to or have them rebuilt. If you own property it is your responsibility to care for that property. If you can't care for that property and you own it you shouldn't have it.

Mayor Lumpkin stated you are talking about a comprehensive insurance but in the ordinance we're talking about liability insurance. We're making the owner insure for liability, liability is in case someone gets hurt on the property, or if the property falls onto the neighbor's property but the people of Tucumcari are not liable for that building but the owner is. We should not be mandating that they buy that type of insurance, if the owners want to insure it for liability that should be up to them. He stated that it was very responsible of Commissioner Mihm to purchase insurance for his buildings. Commissioner Mihm commented that the City should mandate the insurance so the City doesn't have to tear down buildings we can get rid of the liability and get comprehensive and maybe that's where the wording in the ordinance needs to change. Mayor Lumpkin stated that they already looked at that and insuring a building such as Sands Dorsey that was empty was prohibitive. We're not talking \$650 a year. Commissioner Mihm stated no that's talking about \$2,500 to \$3,000 a year but if you own it you should have to insure it. If they want to own it they need to be responsible in case something happens to it. Mayor Lumpkin stated we are putting a burden on the responsible people and I will mention that in an open meeting. Some people have kept up their property and with that license we're making it harder for owners to sale. Commissioner Haymaker stated what's making it hard for them to sale is the outrageous prices, if they wouldn't raise the prices they would sale. Mayor Lumpkin stated that he understands that but people not just from out of town but people from Tucumcari are raising the prices on their properties. People buy properties and fix them up then raise the prices. Commissioner Haymaker stated the ordinance discourages that. Mayor Lumpkin commented that there are people that move into buildings or rent buildings then two or three years later they move out because the owners want more money but that's commerce. We are burdening the property of the people that responsible. He commented that Commissioner Haymaker had been mowing the lawn of the property near his house and said he shouldn't mow it. Commissioner Haymaker stated he has tried that but then nothing

is done about it and it's unsightly to look at. Mayor Lumpkin commented that the ordinance would make them mow it. Mayor Pro Tem Litchfield stated that the owners of that property do not live here. Mayor Lumpkin stated that the ordinance covers if the owners let their property get trashy, the weeds grow out of control or it becomes derelict or unsafe this ordinance will cover it and I'm not talking about changing that, I'm talking about rewarding the people of Tucumcari and they're of Tucumcari because they've invested in Tucumcari and they've improved their property and kept it up why should we punish them?

Mr. Langenegger stated that what the Mayor is talking about being reactive instead of being proactive. This ordinance is a proactive measure to make sure if you have a vacant building within the City you have to pay a certain amount and get a license to keep that building vacant. Vacant buildings not only in this City but nationwide have been shown to increase crime, decrease property value and be a public nuisance, whether they're maintained or not. If you have a vacant building that's maintained your property value is still lower than if the property was occupied. If a person purchases a building to open a business they won't be required to get a license because the building is active. What we're talking about is vacant buildings, vacant buildings are a public nuisance. Commissioner Mihm stated so we are creating an incentive to buy and sell buildings. Commissioner Gutierrez stated that if someone is going to buy a commercial building then they need to bring something to the community.

Mayor Lumpkin stated to simplify, vacant building create more crime but if we charge the owners a license fee the building will still be empty, we're not changing the fact that its empty but we're making it harder to sale. If it's harder to sale then it is less likely to be activated, if it's harder to sale its costing people more money because of the burden we're putting on the responsible people. There are a lot of empty buildings but this license, the insurance mandate and the registration does not make those buildings occupied. Commissioner Gutierrez stated but if the owner didn't want to pay these fees then they would be more realistic in the asking price for the property, then a person who might have the desire to purchase the building and utilize it wouldn't have a fee to pay. So how are the fees going to make it undesirable? Commissioner Haymaker stated that it makes it undesirable to purchase property and just sit on it. Commissioner Mihm stated we don't want people to purchase something and not have a use for it because it's why we're here today. Mayor Lumpkin stated that if a property is empty then the need for business on that particular property must not be there or there would be a business. Someone would open something open. Commissioner Gutierrez stated that greed could be why they're keeping it. Mayor Lumpkin commented but these properties are for sale the people want to open them up. People are keeping their property up why should we apply that burden to them? We want someone to buy that property and open it up and its more desirable to but without the burden and some people are doing everything in their power to sale the buildings and they're doing everything in their power to get those buildings to be used and they're keeping the buildings up. Commissioner Gutierrez stated that the asking prices are so unrealistic how can anyone purchase it? Mayor Pro Tem Litchfield stated that she sees Mayor Lumpkin's point that if they're keeping it clean we shouldn't punish them for keeping their property up but those who aren't keeping it up those need a punishment.

Mayor Lumpkin touched on what Commissioner Gutierrez said and stated that if the owners are breaking some rule from this ordinance we can act on that, if they are not in compliance then we have an authority to tell them what they need to address. We can send them a letter, fine them or put a lien on their property, that process is available to us. Some people are keeping them up if not our ordinance gives us the authority to make them keep it up. It's not fair to them to make sure they have that insurance. It doesn't benefit anyone other than them and we shouldn't charge them a fee or a license because they are responsible.

Mr. Langenegger stated that he believes the Mayor doesn't agree that a vacant building is a nuisance. Whether it's maintained or not it is still a nuisance. What this ordinance is saying whether you're going to maintain a nuisance whether it's being maintained or not and whether it's up to code or not having a vacant building is still a nuisance for the surrounding community because it drops property values, it increases chances of arson and crime it is still a nuisance. So what we're trying to do is, yes punish those people that have vacant buildings so that they get rid of them and cause them to do something with them making them no longer vacant. Mayor Lumpkin stated they're trying and they were trying before this ordinance. There are people reacting to this maybe not the people who own the derelict buildings. Mayor Pro Tem Litchfield stated that Dr. Farmer's building is being maintained and people have come to her to talk about that particular building and not wanting to spend money on the license because they are doing what they are suppose to do. Commissioner Mihm made the comment that they have had a lot of interest on that building but the owners won't come down on the price. Mayor Lumpkin stated that has nothing to do with the ordinance, the ordinance does not make them want to inflate their price that's just profiteering but they are doing what they need to do and we're punishing them for it. Mr. Langenegger stated that we could like to refrain from using words such as profiteering and things like that when referring to the City because he doesn't want the public to get the idea that we're doing something unethical or doing something that we shouldn't be doing. What we're doing is no different from what any other City has done and we're not doing anything we shouldn't. He asked to stay away from harsh phrases that might give the wrong impression.

Mayor Lumpkin stated that we shouldn't be trying to regulate the people who are being responsible. Insurance is only a liability and it doesn't serve the purpose we wanted it to serve. They should have insurance on their building so we don't have to pay to tear it down in case of a fire or something that was the whole purpose of the insurance. Mr. Langenegger stated that the whole purpose was to protect the surrounding buildings. Mayor Lumpkin commented that was a pretty rare service.

Mayor Lumpkin stated he would like to discuss trees. He stated that he isn't being pushed into this by anyone he thinks it's the right thing to do. There have been people that have come to him and asked him why they had to do this because they are doing what needs to be done. There are people that are raising property prices and that may make it hard to sale also but this ordinance doesn't have anything to do with that. He stated that he feels like they are placing a burden on those that are responsible and it doesn't serve a purpose other than give us a little revenue and that revenue is going to be used on other properties. Derelict properties need to be cleaned up and I haven't found anyone that disagrees with that. Mayor Pro Tem Litchfield stated that she does agree that some of the owners are trying but are being punished but how do we say this property is clean but another one isn't and they need to get the license, how can we word that? Mayor Lumpkin stated if the property is derelict it mentions all the ways it would be considered derelict. If the property is derelict in any way then it's not a well kept property and it needs to be fixed. It could be a simple fix like mow the weeds and it could be a lot more extreme like replacing the roof or even demoing the building. It's all in the ordinance so there is a difference between delinquent properties and well kept properties. Mayor Pro Tem Litchfield stated that once you do this then we can have the fee? Once the owner cleans it up and it's no longer derelict but until you clean it up you have to pay the fee. Mayor Lumpkin stated that it would be a motivator and he stated that he thinks it's the right thing to do and it wouldn't take the teeth out of the ordinance. All the teeth that are in the ordinance would still be there but it's aimed at cleaning up derelict properties. I use the term derelict but I mean unsafe, un-cleaned and unsecured.

Mayor Lumpkin stated that he'd like to discuss trees; from his understanding there are lots that are completely grown up and cannot be maintained because they are so overgrown. For example, the lot behind Alco is so thick the trees can't be mowed around or cleaned around very easily. If we were to remove enough of that overgrowth so the lot can be cleaned then it would be presentable. Making someone go in there and completely tear all the trees down will make it look good for awhile until the wind and the dust starts blowing. These lots need to be cleaned up and if they're not so overgrown they can be cleaned up more easily than if they're so overgrown. Maybe we could adjust our definition of cleaning them up. He stated that he and Mr. Langenegger spoke about this in Santa Fe, he stated he's not saying to cut down every tree but with the ordinance we could make them cut down every tree on that lot. Mr. Langenegger asked when we have ever done that. Mayor Lumpkin commented we haven't but we could. Mr. Langenegger stated why are arguing a point whenever we haven't even enforced what we have. He stated there's a property at the college that the Mayor said would cost too much to clean up and it was a burden on the college. We proved that it could be cleaned up cost effectively, we didn't remove every single thing out there but it meets the ordinance. Why is it that we can't enforce the ordinance the way it is and get people to clean up their properties? He stated that the Mayor was showing a lack of faith in City management to do the right thing and work with the property owners to get the properties cleaned up. Mayor Lumpkin stated he'd like to apologize if that's the impression he was giving he stated he doesn't feel like that, he has no lack of faith. He stated that Mr. Langenegger is asking them to do exactly what he just said they are doing and he appreciates that. Mr. Langenegger stated then why do we have to address that through the ordinance we rely on the Commission to enact the ordinance and then rely upon the City Manager to enforce it, we have been doing that. He stated he doesn't know of a situation where we have had an issue with someone saying we've been over burdensome as far as cleaning up lots. He stated he knew the Mayor disagreed about the lot behind Alco but he thinks it does need to be cleared out. Mayor Lumpkin stated he doesn't disagree he just wanted to mention that it is overgrown and it can't be made presentable because of too much growth but some of that growth could be thinned out and maybe it would look better and over time eventually we could reach a point where we will satisfy this ordinance. Mr. Langenegger stated the thing that won't work is having people say well I can't do this which is an easy way out. I can say I can't do this but what proof is there that I even tried to do it? Mayor Pro Tem Litchfield stated that she agrees with Mr. Langenegger. Mayor Lumpkin also stated he agreed.

Mayor Pro Tem Litchfield stated there was a property on 54 and asked what they could do about that. Commissioner Haymaker stated that he met with the owner and he seemed agreeable to the fence. He showed him the ordinance that wasn't already in existence concerning the type of industrial property he had and suggested putting up a section at a time. The owner said that there were people jumping on cars to look at the property and he assured him no one would do that under this Commission but the owner did say he won because he was able to prove that the City did it to him and didn't do it to someone else he brought a lawyer in and won and now it can sit like it is.

Commissioner Mihm asked if they were talking about removing the vacant building description and only going to a derelict building penalization. Mayor Lumpkin stated that was a simplifying it but yes. He is talking about the properties that are well maintained not having to buy a license or insurance. The properties that aren't maintained they can't buy a license or insurance but by our ordinance they have to apply for it. If its derelict and they fix it up to meet the standards of a well kept property then a license will not be necessary. After the last meeting and reading this he understands that if they have derelict property they can't buy a license, they have to apply for it and then clean up their property in order to buy a license. They clean their property up and meet a certain standard then we make them buy a license. I'm saying if they clean up their property and meet the standards they don't need to buy

a license. They get rewarded for their actions and their responsibility. If they teeter back and forth, if they don't clean up and their roof starts falling in and it becomes derelict then we take action on it. He stated he can't help it if the properties are empty but we're making it easier for it to be used by not putting this burden on it we're also making it easier for these people to own it. Mr. Langenegger stated you're saying it would make it easier to be used but that's incorrect, we're making it easier for it to be unused. If we take away the license fee and say you don't have to have license for a vacant building what you would effectively do is make it easier to be an unused vacant building. By having the license fee we're making it easier for it to be used, we're rewarding them for making it an occupied building. Mayor Lumpkin stated that he disagreed with that premise, making them spend money on that property makes them more likely to want to sale it or use it. There isn't anyone with a vacant building right now that is just letting it sit there. They want to use it for some reason or they are waiting on the racino or they've neglected it to the point where they want to turn their back on it and we're going to get those properties fixed. If they keep their property up and they meet the standards we say they need to meet why are we going to make them buy a license if they've done what we've asked them to do? We can say empty buildings create crime they're easier to sale if they have a fee on them or they'll sale easier if they don't but all those things we don't know for sure. Mr. Langenegger stated that we do know for sure because it has been tried in several other communities. Mayor Lumpkin stated but these people are responsible, they are doing what we are asking them to do, they are good citizens and good people but we're requiring them to buy a license that we never required them to buy before and they're having to do that basically because it's cleaned up, if it's not cleaned up then we go in and make them clean it up. Once it's up to a certain standard then we reward them by them not having to buy a license and by not having them buy insurance. If they want to buy insurance, most of those buildings the owners have put in a lot of money and they're already insured. That's a mute point on the ones that are for sale and are fixed up.

Mr. Langenegger stated that some of those buildings have utilities on them and that's something that hasn't been discussed in this meeting. We discussed previously adding onto the definition of a vacant building, if a building has utilities it is no longer vacant it is utilized for some purpose. Mayor Lumpkin stated he doesn't see it necessary to discuss this change. If the property is cleaned up, well kept and secure leave it alone. Commissioner Gutierrez commented that some of these buildings in question have utilities so the change would be relevant to them.

Mr. Langenegger stated that any argument that can be made that is going to sway the Mayor from his position he will ask to get rid of it because if that's the point, then he'll be quiet because he is wasting his breath by trying to counter arguments, if you're set saying this is the way and that's it. Mayor Lumpkin stated his argument is people are doing what they ask them to do, the people are responsible and their properties are kept let's leave them alone, I don't want to charge them an empty building fee or make them get insurance or a license. If the properties become delinquent or derelict in any way the ordinance will take care of making them correct that. The ordinance does address that. Let's say we have one that's a little below the line of a well kept building we can send them a letter, they clean the building and keep it well kept then they've done what we've asked and we don't need to put a license on it. The license isn't going to make us that much money. It means a lot more to them than it does to us as far as the numbers and amount of money that we're talking about. It was mentioned that the progressive nature of the license fee would be changed. Instead of progressing from \$300 to \$500 to \$1,000 it should be left at one fee and not be progressive. The people in this meeting have said we want them to sale the building or open it up they're trying very hard to open them up. He stated that he has taken two businesses by Doc Farmer's building and his personal belief is that it is a very good building but its usage is narrow, it doesn't just lend itself to any building but it's pretty well set up for

an animal hospital. It's a nice building and I've visited other buildings with businesses and we don't charge them for being responsible and if they aren't being responsible then our ordinance will make them be responsible or the ordinance will cover that. He stated this is his stand and there are a lot of people that think they same thing. People have worked hard all their lives and have worked hard to keep the property up and they should be rewarded for that and the reward would be a lack of those fees and insurance mandates.

Commissioner Mihm asked how they arrived at \$350 for the license fee. Mr. Langenegger stated that was the amount it was in the city of Las Vegas and the fee differs depending on the city. Commissioner Mihm stated the fee needs to be there because it will generate more urgency in either getting rid of a building that isn't being used by the owner, if you're not using it get rid of it no matter what. If you have \$150,000 in it forty-five years ago and its worth \$25,000 now get rid of it, someone will buy it and use it. He stated Kim and Adam Nicole's are a prime example they would love to buy a building but every building they look at the owner is asking an outrageous amount and that's his point. He stated that the design of this ordinance is all integral it all works together and the vacant building license is all a part of the piece of this puzzle. If we could revisit the dollar amount on the non business license amount and still have that piece in there maybe at a more demographically friendly dollar amount but still have an incentive for those people that own these buildings to do something with them. There are people that are out there looking for buildings but they're too expensive and it doesn't matter what you paid for it if it's not worth that same amount, like a car you get rid of it for what it's worth or you can hang onto it and sit on it. Maybe we need to revisit the dollar amount but it all works as a piece of a puzzle, if we remove a piece of the puzzle like we're saying they will sit on these buildings.

Mayor Lumpkin stated what if we're just talking about getting their attention and saying they need to do something about their building what about a \$50 registration fee. Commissioner Mihm stated maybe just a fee, like the business license fee. He stated he has to pay two fees even though it is one business because it is located in two different buildings. He stated he thinks it has to be more than a business license fee because when they're in an area where there are a lot of derelict buildings they won't get patrolled that much. We are paying police officers to look at all those buildings, we're going to be doing that anyway that was our discussion when we started talking about the vacant building license. It creates a burden on City law enforcement to ensure that they are safe. As we go forward with this ordinance, currently they're occupied by whoever breaks in. He stated that he had a discussion with one of his employees because her parents were one of the ones that were as she said victimized by this. He told her it wasn't the City's fault that your parent's decided to buy all this property and then fill it with stuff. It's not the City's fault, it's their decision and we pay the price as the City if something happens to that property and the owners walk away, the city is now inheritably responsible for it even though they complied and maintained. The employee asked what the next step would be and he told her to get a business license and a GRT number and as they sale items pay the gross receipts. The City can't be liable for someone else's horde and they need to be penalized because they are affecting our cost of operation as a City when something does happen and they throw it in our lap. She told him it would be tough to do and he told her it's either going to be tough to do or they're going to pay the price but it is not the City's fault that they bough excessive property to store excessive stuff, it's not our fault and it wasn't our decision but we have to protect ourselves as a City. Mayor Lumpkin commented so they own the building and as long as they're not breaking the nuisance ordinance but they have private property rights, if they want to buy a building and put stuff in it that's fine. Commissioner Mihm stated its fine as long as they follow the ordinance and their building isn't considered a vacant property. This property isn't vacant but the point is we can't be burdened with

other people's decisions whether they were good or bad but if you have excessive property, if you have more than you need or use it is not the City's fault. He stated that if the ordinance is explained properly people will understand.

Mayor Lumpkin commented that there was building owner who just bought the building and the ordinance came out and he said he wouldn't have bought the building. Commissioner Mihm stated then he shouldn't have, just because you want something doesn't mean the City has to be responsible when the owner walks away. Mayor Lumpkin asked how the City would be responsible. Commissioner Mihm stated that if it burns down or if a semi drives through it with no insurance and there is a pile of crap sitting in the desert or on the boulevard we are now responsible if they walk away he doesn't matter if it's a well kept building or not. Mayor Lumpkin stated that liability insurance would not pay for that but we aren't requiring anything other than liability but we're making him pay a fee. Commissioner Mihm stated that the fee will defer our cost to a degree. Mayor Lumpkin commented this man bought the building because he wanted it to store things, the building is well kept but now he is going to have to pay a \$350 to a \$1,050 depending on whether we adjust the fee or not. Commissioner Mihm stated the fee was already discussed and they will be changing it. Mayor Lumpkin then stated so \$350 plus the liability insurance and if a semi were to go through the building how is the \$350 fee suppose to protect the people of Tucumcari. Commissioner Mihm stated we would be \$350 ahead of the game. Mayor Lumpkin stated we just talked about the City paying for someone else's problem. Commissioner Mihm stated it's a global event. Mr. Langenegger stated why should I pay for my property tax? He stated we use the vacant building licenses to provide services. Mayor Lumpkin stated we are creating a new tax that we don't need to create. Those people that own the buildings that have property tax and they pay it we're adding it to the people that are responsible. Mr. Langenegger stated we're adding it to the people that have vacant buildings. A vacant building is a nuisance. Mayor Lumpkin stated that they own the building, it was a business at one time or was used at some time. They didn't say they want a vacant building, they had a purpose for that building but by circumstances beyond their control they own a building and they're keeping it and they should be rewarded for keeping it and doing the best they can. We're going to make them pay an additional tax to the property tax they already pay. The only thing that \$350 fee does is put us ahead that year, I understand that but the truck running over a building that liability insurance doesn't cover that and \$350 isn't going to give us enough money to fix the building. Commissioner Mihm stated it won't but it's better than nothing if we get stuck in that type of situation.

Mayor Lumpkin stated he didn't want to burden the people that are doing what they are asked to do, the responsible people. We're not giving up that much from the ordinance. He stated that he wanted to bring this up during the comments from the Commissioners and he is asking that it is put on the agenda at the next regular meeting so we can vote on it and I will ask a motion for it and I feel like that we are being unjust to the people that are cleaning their properties up and keeping them up. He stated he wants to help the people of Tucumcari rather than have the person help that who aren't being responsible and that's what we would use that revenue for. It's a trash fee and they have done what we've asked them to do and yes I am firm on that. I don't believe the people that are keeping their properties nice and well kept should have to pay the license fee or the insurance and they should be rewarded for their actions.

Mr. Langenegger asked what the rest of the Commission thought. Commissioner Mihm stated that this will incentivize people to actually make movement with their property and possibly get rid of them at liquidation prices instead of holding on to something that is costing them taxes, liability or insurance. Just get rid of it there are people that will buy it at a reasonable price. He stated he bought his

properties at a reasonable price, they were in horrific condition but I bought them because they were the price they were and there are people that will buy them and occupy them. This incentivizes people to make movement with their property, some of them hordes of property. He stated he has been told this ordinance is awesome, they are seeing movement in town and buildings being removed that needed to be. There are two going down and that makes people very happy and was told that we better not stop. Mayor Lumpkin stated the part of the ordinance that is doing that is not being messed with. The part of the ordinance that caused them to react the way they did is staying the same, everyone agrees. Commissioner Mihm stated he didn't think so they didn't want to pay additional money to have that stuff. Mayor Lumpkin commented they knew it wouldn't meet the ordinance requirements. Commissioner Mihm stated this was part of the teeth that was talked about in the ordinance, it part of the picture of the teeth and the teeth are either use it or get rid of so someone else can use it. Mayor Lumpkin stated that people are trying to use their buildings or they are for sale, they advertised and painted and it looks real good. He stated he understands that Commissioner Mihm believes their price is way too high. Commissioner Mihm stated that their price is too high and this might actually make them realize maybe what I invested in this property is what I should ask for. Mayor Lumpkin commented so you're saying the burden we put on it will make them want to get rid of it and that will be an incentive for them to drop their price? Commissioner Mihm stated that if we start taking the teeth out of the ordinance there will be people coming after us because we took the teeth out. Mayor Lumpkin stated that the teeth in the ordinance still exists the part of the ordinance that is making them clean up derelict properties is still intact.

Mayor Pro Tem Litchfield stated that she likes the ordinance, she can see Mayor Lumpkin's point on the people that are taking care of their property. She stated the thing that bothers her is that if you start making exceptions for one then you will be creating a snowball. She has already talked to several people and their property did look nice but if we let them go someone else will come and say we're prejudice because I don't have the money to do that. I don't want us to back down on this ordinance because there already has been progress. Mayor Lumpkin stated there is a difference between a well kept property and a derelict property. He stated he is talking about removing the insurance the license fee from the well kept property. The people that are going to complain that they can't afford it their property doesn't qualify and they won't have to buy a license, they will either have to tear down their property or clean it up. If it's borderline they can fix it up to meet the requirements then they would have to buy the license but once you clean it up you will be rewarded by not having to have the license.

Mr. Langenegger stated he understands what the mayor's position is and has heard but he would like to hear the rest of the Commission's position, let them say what they need to say. I work for the entire Commission and he stated that he feels that he is in the position where he is unsure of how to move forward so he would like to understand from the rest of the Commission what their thoughts are without interruptions. Mayor Lumpkin stated that he wanted to clarify the point that he made because it doesn't relate to the fact that one person is being treated different from another.

Commissioner Haymaker stated that on the sixth of September of 2005 he received a letter from the City that was for inspection of property that he purchased that is now the Catholic church's parsonage property. The letter stated that the City of Tucumcari has researched City permits and has found that none were issued for the above location. He stated that he was going to make a fence to have a community garden with American wire fence that you could see through. The violation is for not having a fence permit and specifications to fence height at this time you have ten days upon receiving this letter to comply with the ordinance and correct the violation by obtaining a permit you may be fined \$300 per fence. He stated he pulled the posts up and sold the lot to the Catholic Church, he didn't

come in and gripe and carry on. He stated he had seen people come in and complain to Mayor Curnutt about the Sands Dorsey building. The Sands Dorsey is a vacant building and cost every man, woman and child in Tucumcari at a current census of \$43 a piece to tear it down. If we could make it cost every man, woman and child in Tucumcari \$33 the next time he calls this forward progress. It was a good man and there were a lot of good memories, there was no villain but many victims. He stated that he spent two days in 2010 with Mayor Witcher and we put together an ordinance for animals. He stated that he had hens that he raised for ribbons and within a couple of months dogs were eating them and even tried to attack him because we didn't stick to what we had in the ordinance that we spent so much time working on. This is just two incidences and one person that have been affected by the Commission not sticking to what they say they're going to do. If and when he and his wife, Toni, are ready to sale their home we will be the \$300 if it is a vacant building and it will be kept. Every month it stays for sale the price will go down, it will not be a burden to the City because he paid cash for it and it is insured. He stated that unless we change the figures of the amounts we can pull any part of it out because we all sat together and agreed. He stated that if he would have heard the Mayor's agreement at the time he may have been able to do something with him but because we're already enforcing it, he doesn't see how the City can't do it. It seems that a lot of well meaning people have tried to bend over backwards for this town and it always ends up coming to bite the town, as seen in the dog ordinance. He stated he can't understand a town that would permit people to just be able to buy property and property particularly in commercial areas and be able to hold them for investment and not expect to pay something in taxes. The taxes here are wonderful and he just looks at it as having building and having to pay for it then you can do whatever you want. But if people buy a building with the intent to use it then there is no fee so all this is moot but we can't ignore that the Sands Dorsey fell under the category of a vacant building and the whole City was burdened with it. He stated that he is most concerned because of the climate of this City if we don't come together unified at the end of the day on this he is willing to do whatever it takes for us to say yes on what we do. It's important for us to resolve it here between us instead of in an open forum with the radio. Mayor Lumpkin stated that he understands where he is coming from but the properties Commissioner Haymaker spoke about were in violation while he is talking about properties that aren't in violation.

Commissioner Gutierrez stated that she still stands with her decision and doesn't think that we need to go backwards in any way, shape or form. We said that we were going to go forward with this with the teeth in place and she stands by that decision. We can't sway regardless of whether it's an up kept building or a dilapidated building it is in our ordinance and we just need to continue. Mayor Lumpkin commented that he respects that and he hopes he can be respected for his stand also. He stated he is talking about cutting the people that are responsible some slack and that is the part he is going to ask in an open meeting that they vote on at the next meeting. Commissioner Gutierrez commented that if they just went around the table and were able to voice their opinions and concerns. She stated it sounds like the majority of us are in favor of letting it stand why are we going to a vote again? Mayor Lumpkin stated because he feels like it would be the right thing to do, he feels that he is honestly taking up for people that aren't here, people that have done what they should do and I don't think it will hurt the ordinance. If it is handled properly by the Commission it is not going to affect the teeth in the ordinance. In an effort for unity, I saw that I was outvoted on the whole thing and he wanted to the Commission to look as if they were united on this task. He stated we can amend that particular part of the ordinance and we can do it united, it won't hurt the ordinance, the effect or the progress to reach the objective of cleaning up Tucumcari and it definitely won't cause a problem with the people that have been doing what they should be doing.

Mayor Pro Tem Litchfield stated she wishes they would do this in April instead of right now with the election coming up. Mayor Lumpkin commented that he feels strongly about this and there are a lot of other people that feel strongly about it as well. Mr. Langenegger stated that he understands the Mayor's feelings and appreciates them and the passion he is putting into this. If this Commission is a five member board that governs the City and makes a decision and the majority of it says lets go in one direction then doesn't he think he should honor that. He stated that Commissioner Haymaker feels very strongly about the casino, he has very differing opinions on what we should do but he puts his personal feelings aside signed the letters, passed resolutions and asked for the casino to come here because that is what the majority wanted and that is the way this government operates, we go based on the majority. He appreciates and respects what the Mayor is doing but by putting this out in an open meeting and saying we voted on this but I don't like it that is weakening our stance as a City because it's giving the people the opportunity to come in and chip away at it. Mayor Lumpkin commented they will only chip away at what we allow them to the ordinance is going to be intact. He stated that he would like to think about this and would like to put it on the agenda for the next meeting. I see what you're saying, before this election it won't look like we're backing up it will allow some of the people in the community to speak. Commissioner Gutierrez stated she doesn't believe we should do that and Commissioner Mihm agreed. Mayor Lumpkin stated that there are people in the community that will disagree with the ordinance as is. Commissioner Gutierrez stated that people will take an opportunity to take a different route if it is presented. Mayor Lumpkin stated that he has time to think about this but he feels that he is right and he feels that the people that are doing the right thing need to be rewarded.

Commissioner Gutierrez asked if the Commission could take a vote on whether or not this issue was on the next agenda or not, doesn't our opinion count. Ms. Gray stated they couldn't take a vote in a work session. Commissioner Gutierrez asked how they can say what would be on the next agenda. Mayor Lumpkin stated he wasn't sure how that worked but he believed the Commission should be in charge of the agenda. Mr. Langenegger asked if one person could ask for something to be on the agenda and have it be on there. Ms. Gray replied she believed so especially since it was the Mayor.

Commission adjourned at 4:56 p.m.

Submitted by:

Angelica M. Gray
City Clerk