

CITY OF TUCUMCARI
CITY COMMISSION
Special Work Session Notes
February 4, 2016

The Tucumcari City Commission met in a work session on Thursday, February 4, 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; and Angelica Gray, City Clerk.

Discussion regarding Nuisance Ordinance

Mayor Pro Tem Litchfield stated that she requested the meeting and she was going to be very blunt and asked that everyone be open to suggestions. She stated that she had been thinking about this a lot and one of the things she has thought about is if they did the ordinance and if people comply and they're keeping it clean and it looks nice, when they come apply for a license maybe we could just waive the license fee. She stated that Mr. Langenegger said he would like them all to have a license, so maybe we could amend this to where we have a lower license fee. We don't have to charge \$300, we could charge less even if its \$25 it's something that they pay and all owners should be able to afford \$25. Commissioner Gutierrez stated that this applies to those that are in compliance. Mayor Pro Tem Litchfield stated that she had a lady come to her house that owns a lot of property and she said they couldn't afford to clean it all up in two weeks and said that some of the City property isn't cleaned up. She stated that maybe they could all come together and amend the ordinance so that the fee isn't so high that way it isn't a hardship on anyone. Mayor Lumpkin commented that he liked the idea of having no fee but maybe having a \$25 registration fee, that way we get their attention, we have it on record that there is a vacant building there and who owns it in case we have to communicate with them in case they slip below compliance. Mayor Pro Tem Litchfield stated that if they aren't in compliance they could charge some kind of fine. Mr. Langenegger stated that there are fines associated if they aren't in compliance. Mayor Pro Tem Litchfield commented that she doesn't know if \$25 was the right amount but it would be something in good faith. She stated that she can see if they're keeping it maintained \$300 could be a chip on their shoulder. Mayor Lumpkin stated that the \$300 is being looked at as a constant attachment to the property. In other words you're going to buy that property and right off the bat you know you're going to owe \$300 every year and that was probably the main complaint that came from the people that deal with real estate. He stated that he liked Mayor Pro Tem Litchfield's idea and he has talked to Mr. Langenegger and the Commission and everyone agrees that there should be some type of a fee, license or registration so we have a person we can talk to in case they slip below compliance.

Commissioner Gutierrez stated that she thinks it is a good idea to have a lesser amount but she still has mixed feelings about it. She stated that she had spoken to Michael Ray and there are fifty-four properties just on the south side of town since December that have been identified and have received notices. Mr. Langenegger stated those aren't just vacant buildings those are properties that apply to the nuisance ordinance. Commissioner stated that we have a huge problem. Only ten of the fifty-four have complied, three have gone to court and waiting on judgment and three more go to court next week. Commissioner Gutierrez stated that some of the vacant buildings look better than some of the buildings that are actually in use, she stated that's the saddest part. As an example she stated you can go to the old Taco Hut on the corner of 7th and the Boulevard, the old Rubee's, its cleaned up but if you look

across the street at the old Sonic it's an eyesore so she can see the difference she just doesn't see how they can come to an amicable agreement where its across the board for those who have already had to start tearing down and have become compliant. She stated that she has had only a few people ask questions then they're done with it. Mayor Lumpkin stated that there is one point that he has been trying to get across we're talking about two different properties. He stated they want teeth in those fifty-four properties, we want the properties that aren't complying to comply and we want to clean up Tucumcari. The properties we're talking about are clean and they have complied so he doesn't see why they need to bother them, but he likes the idea of registration because that gets their attention and they see that they are being watched and they are going to have to maintain their properties. He stated his favorite idea out of the whole thing is there needs to be someone we can talk to in the community because over the past few years we have had to deal with people in different states and it creates a very difficult situation to get anything done. We would not be killing the effort.

Commissioner Gutierrez stated that if they have a point of contact here within Quay County, how many times have we tried to get in touch with somebody with the information they have provided and we're not able to, are they automatically considered non-compliant and get the fine? Mayor Lumpkin stated yes, because we're asking them to give us a contact and if they don't provide a proper contact, the ordinance does say that would be considered non compliant but that would not be a big burden on owning that property or maintaining it. It would be something that the City needs and it would get their attention. We keep using that term get their attention but we need to have a phone number we can contact and get something done and that's on the City so they need to comply. He stated he believes there is a fine that we have so far if you don't have a viable contact for each property, you get a letter then there is a fine. Mr. Langenegger stated that it is in the vacant buildings section of the policy and it says in order to be registered as a vacant building you have to have a local agent. So if someone were to give us a fake name for a local agent and we weren't able to contact them it wouldn't be meeting the requirements of a vacant building and if they're not meeting the requirements then they are a nuisance. Mayor Pro Tem Litchfield commented then they would be able to fine them more.

Mayor Pro Tem Litchfield stated that they should just talk about vacant buildings that are in compliance not the buildings that are cleaned up and just having problems with the \$300 license fee. Mayor Lumpkin stated that some were having issues with the insurance also, most of the owners that are in compliance are spending a lot of money keeping it in compliance and they have insurance but it creates an attached burden to the property in the future. Last time we discussed the \$350 being revenue for the City for doing some of the jobs that we need to do, the insurance fee does not come to us in any way, shape or form so it really doesn't improve the effort, it'll probably make it harder to sale the property so he doesn't see why it's needed. Mayor Pro Tem Litchfield stated they would need insurance in order to register. Mayor Lumpkin stated at \$650 a year it's not insurance property its insurance in case the property damages someone else's property. He stated that he would love to see insurance on the property but that was prohibitive and extremely expensive. In fact a lot of insurance companies would not even insure a large empty building. Commissioner Mihm stated that it's limited but doable, he stated that he had to insure because one of his buildings was vacant for two years and he had to keep insurance. It was about \$1,600 a year. Mayor Lumpkin asked if it was in case it burned and it would be covered. Commissioner Mihm stated yes and especially since his building was on the boulevard it is in the event a truck drove through it and backed out and left he wouldn't have anything so he kept the insurance on it because he doesn't want to be at a total loss if something happened. Mayor Lumpkin stated that they were talking about two different types of insurance liability and building insurance. Commissioner Mihm stated that you can insure an empty building but comparatively it is more expensive, when he occupied the building it was \$300 a year less.

Mayor Pro Tem Litchfield asked Commissioner Gutierrez if she thought \$25 a year was too high and she stated no she thought it was too low but she wasn't opposed to lowering the fee but \$200 would be too low when you consider the time and the energy the City employees use when they have to go to make sure the property is being maintained so that is at an expense to us. Commissioner Mihm asked how many vacant buildings are on the City's radar right now. Mr. Langenegger stated that he wasn't sure on the exact number but there was at least eighty. Commissioner Mihm stated that if we charged the same fee or a little more than we charge for a business license, which is \$35, then that's revenue of \$3,000.

Mayor Lumpkin stated that the discussion that he got about that when we were talking about charging \$350, if its revenue to help the City pay for making people clean up their properties then the properties that are cleaned up are paying for the people that are cleaning up. When you talked about the number of vacant buildings if they're compliant they're the only ones that can get the license anyway, the noncompliant people can't get the license until they comply so it matters if those vacant buildings are in compliance or not.

Mayor Pro Tem Litchfield asked Commissioner Haymaker what he thought and he stated that if it's between \$25 and \$100 he says \$100 because again he doesn't know of a town where you can own prime commercial real estate and use it for storage and not have to pay any money. Commissioner Mihm stated that another thing is we don't get a lot of tax revenue; the property tax here is already rock bottom. Commissioner Haymaker stated Tucumcari is already a good tax break on what we have. He stated that he doesn't see it as being a burden on the building for purchase because if people are going to keep purchasing the building to store stuff in they should have to pay. If they are purchasing the building to use it for business they won't have that fee. If it is compliant and contributing then there is no fee. He stated he wouldn't think about purchasing a building on Route 66 just to use as storage, no matter how clean it is. He stated he would have to pay because someone else could come in and use the space to generate revenue for the City in taxes and have a business or an office going, where something is going on, not just to store your things in it and there should be a fee to do that since they are not contributing to the tax base because they are taking a space that someone else could be using. He stated that \$25 is too low. Mayor Pro Tem Litchfield stated that \$25 was just an example just to do something other than the \$300. Commissioner Haymaker stated he doesn't see it as a real estate burden unless people keep passing it along and use it for storage then it should be a burden because it's burdening us. Mayor Pro Tem Litchfield stated that the ones that aren't compliant would have to pay the fee. Mr. Langenegger stated that the ones that aren't compliant will be cited, fined and if they don't come into compliance its \$500 and then is becomes daily fines if they don't come into compliance. Mayor Lumpkin stated that most of the people that he has spoken to aren't opposed to that and they think it's great that we're tearing down and cleaning up properties that aren't in compliance. Commissioner Mihm stated that he found that most people are so happy with the fact that we're aggressively pursuing this. The majority of people are happy with the ordinance and they're not even questioning the \$350. Mayor Lumpkin asked if under the current ordinance, if Bob Beaulieu would have to pay \$350. Mr. Langenegger stated not currently because the person that has the business license for the dentist's office is still utilizing the building but if the owner left he would have to pay the fine. He stated he asked the Commission a few meetings ago to adjust the definition of a vacant building to include if they have utilities connected and active, if they are considered a vacant building. Commissioner Mihm stated we are generating revenue from those buildings. Mayor Lumpkin stated that he feels its necessary to clarify he stated that the buildings that are in compliance that look good are defined as vacant buildings have to pay \$350 but we're discussing lowering that fee, \$25 and \$100

was suggested so we can have an entity in the community and also to get their attention that the building is registered as a vacant building. If we change the definition of vacant buildings we're still talking about two different buildings. We're talking about one that doesn't have utilities on. Commissioner Mihm commented that the building might be in good repair but it is not generating any revenue for the City but it does have the potential. Mayor Lumpkin commented the people that own those buildings want to put them into use, they could be doing something wrong when they're trying to sale it maybe the price is too high but they want to put them in use because they get more income out of a building that is in use. Commissioner Mihm commented that he kept his building rented and when we started using it there were still people interested in renting it but he had his price set appropriately at \$350 a month. He stated his point is if you own something and its not generating any revenue its only costing you money you should lower your price until it stops costing you money. Mayor Lumpkin stated that he doesn't want the people to think they're trying to take away all their rights. Commissioner Mihm commented that they can do whatever they want but we need to tell them if they do whatever they want and they're taking a long time to do so we need to have a way to generate revenue. Commissioner Haymaker stated we aren't telling them what to do but we're simply saying they can do whatever they want but it's going to cost because it would cost if you were generating revenue.

Mayor Lumpkin stated that he has another suggestion, right now the ordinance is working pretty hard. He asked if they would like to work on this after or prior to the election. Mayor Pro Tem Litchfield stated that she would rather work on it after the election. Commissioner Mihm commented they should get through the election because if we change things midstream things could get misconstrued and that's not the perception they want. Mr. Langenegger commented if we wait until after the election to address this we will have to do an ordinance change the first meeting in March then it wouldn't go into effect until April or May and that puts him three or four months in implementing the vacant buildings ordinance. The application process to register the buildings is ready and he would like to go ahead and get buildings registered and get the process started, so when its summer we don't have our code enforcement working on both vacant buildings and weeds. He stated he would like to get the bulk of the vacant buildings done now that its winter and he is fine with whatever the Commission decides concerning the fee but he does think there needs to be a registration and a fee associated with it because it gives us a way to track the buildings but he would like to get started as soon as possible and he stated he doesn't know if it would have an impact on the election or not.

Commissioner Mihm stated that \$100 would have more teeth than a business license fee and it is a doable fee. Mayor Pro Tem Litchfield stated that \$100 is good and she's fine with it. Mayor Lumpkin asked if that \$100 would be the registration fee and the yearly fee. Commissioner Haymaker stated that he and his wife counted the thirty-four buildings that are compliant on Route 66 so that would be \$3,400 on Route 66 alone that the City would generate. Mayor Lumpkin stated that he's looking more at getting their attention and letting them know this is something they have to comply with and it shows an effort and he doesn't see anything wrong with \$100. Mr. Langenegger stated that he would appreciate it if we could keep the liability requirement in place because as the City Government and as the Commission we have a responsibility to protect the citizens of the City. Liability doesn't protect the owner against loss but it does protect those around the property against harm.

Commissioner Gutierrez asked for an explanation of the Minneapolis \$10,000 bond to the City and asked what it would be for. Mr. Langenegger stated that you have to register for \$6,000 annually and they make you have a \$10,000 bond in place in case the City has to clean up the property. He stated that he wasn't sure if they would be able to do that in New Mexico. Commissioner Mihm stated that

was a state law that would cover the city against the City against loss of wages or if they have to tear the building down. Mayor Lumpkin stated that he doesn't think the insurance is needed because the really nice properties probably already have insurance on them but we would be attaching another burden to the property. The liability insurance will not come back to anyone other than the one who would suffer damage or injury from that property, its not like someone is going to get hurt walking by the building. That should be up to the landowner we are infringing on ownership and private property rights by saying they must have insurance in case. Commissioner Gutierrez stated she had to do it with her property, if someone were to get hurt we have to have that coverage. Whether you own it or not you should have coverage. Commissioner Mihm stated owners should have it. Mayor Lumpkin commented that it comes with their insurance all insurance policies have something that will pay if your building is damaged and it always has liability with that. Liability by itself doesn't do what we wanted insurance to do in the first place, which is replace the building in case of damage so the citizens of Tucumcari wouldn't have to replace the building like we did. Commissioner Gutierrez stated that she doesn't think it's just pertaining to that, if someone were to get hurt because there are people that trespass they would sue so the owners should have some type of insurance on their buildings regardless of whether it's vacant or not there should be some insurance. Mayor Lumpkin stated that it does pertain to it because he was the one that brought the insurance up when we looked at Sands Dorsey eight years ago. Mayor Pro Tem Litchfield stated that she appreciates everyone coming tonight.

Commissioner Mihm stated that they needed to come to an agreement and stated that he thinks \$100 has enough teeth, it's an inconvenience but it's to our benefit if we do that. Mayor Pro Tem Litchfield stated that the registration fee was going to be \$100 and Mayor Lumpkin asked if that would be a yearly fee or just a registration fee. Commissioner Mihm stated yearly because we have to monitor the properties. Mr. Langenegger stated that he would draft something up and put it on the agenda for the next Commission meeting and then they will have to vote. Commissioner Mihm said changing the fee amount to \$100 and removing the escalating fee and the \$350 starting fee is a good start. Mayor Lumpkin commented that he had an idea of charging \$50 for registration and \$50 a year. Mr. Langenegger stated that he was fine with that because it would still be \$100. Mayor Lumpkin stated that the registration fee means they are registering their building and we have a record of it. Mr. Langenegger stated that the registration fee is nonrefundable because when someone comes in and fills out the application we will send code enforcement officers to inspect the building and if they fill out the form and its not up to par then they have to do it again and this will allow us to be compensated for the time.

Commissioner Mihm stated this would also have to relay to the county courthouse for when properties do exchange hands, they would have to have it when changing taxes so we need to communicate with the county and there has to be a form they have every time a property is quit claimed or sold for cash otherwise they won't come in here so that should be communicated with the County Courthouse as properties change hands. It would possibly have to go through the County Commission and added to when properties transfer and we get notified. Going down the road because of this ordinance people may sale or give away their property that person needs to be notified before they sign. Ms. Gray stated that once things are filed it's a done deal. Commissioner Mihm stated that going forward this would be a part of it being filed it would be notified. Ms. Gray stated when you file a Quit Claim deed or any deed it's a final document, it's already a done deal. There isn't any document filed that can throw a red flag up and say we need to notify the City that the owners are thinking about selling their building. When something is filed it's already transferred and at that point we can't do anything unless we go after the new owner. Commissioner Mihm commented that can we implement anything with the County's permission for them to notify us if there is a change, we have to work with them because they

do all the record keeping. Mr. Langenegger stated that as far as going to the courthouse he thought there was something in the ordinance that said if they sell the property of transfer it, they are responsible for notifying us. Commissioner Mihm commented maybe that's something we could coordinate, it might have to go through the County Commission with it being an ordinance that property changes hands within the city limits of Tucumcari that there is a piece of paper attached that says if this building isn't going to be utilized other than as an investment you may be subject to the \$100 a year fee. Ms. Gray stated that she would have to check into it. She stated that notifying us could be implemented into a policy that the owner is to notify us. Mr. Langenegger stated that we can't tell the county what to do but we can write it into the ordinance that if the property is sold the seller must notify the City and we can write that into the license. If a license isn't renewed we will go out and check it then we can go to the Courthouse and find out who the new property owner is, so we can just address it through our process. Ms. Gray stated the information would be public record and not something they wouldn't give the City. Mr. Langenegger stated that if it has already been registered and paid for whenever we go to renew it and we're told we're new owners we can get that information. Commissioner Mihm commented that he thinks they will see a lot of properties moving hands with this, even with the \$100 fee and that's why we should see if there can be some kind of communication with the courthouse. Mr. Langenegger stated that they could visit with them and see but he doesn't know if that's feasible. Mayor Lumpkin commented that would be part of the application process and they'll know when they sale it. Mr. Langenegger stated we can write it into the license.

Mayor Lumpkin stated that he wanted it to be on record that he was opposed to the insurance but he appreciates the fact that the Commission is working together. Commissioner Gutierrez stated that everyone is entitled to their own opinions and that's what makes this a good Commission, we can agree to disagree. Mayor Pro Tem Litchfield commented that yes it looks better if everyone agrees but if we don't we're all human and we all have our own opinions. Mayor Lumpkin commented that it always looks good that they talk these things out and that he thanks the Commission for that opportunity and also for the ear that they have lent to the situation.

Ms. Gray asked if the amendment was just going to be for the amount of the registration fee and no escalating fee. Commissioner Mihm stated that it would just be a flat annual fee. Mr. Langenegger stated that it would be a \$50 registration fee and a \$50 annual fee and the liability will stay the same because the majority is in favor of it staying the same. He asked if the amendments to the definition of a vacant building to include utilities and to exclude buildings that are registered on a National Historic Register was okay. Mayor Lumpkin stated that he didn't like that they had to have the utilities on, although in New Mexico if your gas is turned off for more than ninety days then it's a big deal to have it turned back on. Commissioner Mihm commented that he thinks the building should have electricity because some don't have gas or water and the City gets taxes from Xcel Energy. Mayor Lumpkin asked what the minimum water bill was. Commissioner Mihm stated commercial was about \$92, he stated that he has a building that has no water to it. Commissioner Gutierrez asked Commissioner Mihm, since he has a business, what his average water bill was he stated that is was \$97. Ms. Gray stated the minimum for commercial was definitely higher than residential. Commissioner Mihm stated because of the garbage. Mayor Lumpkin commented that rental properties don't usually have water because when you rent a building you have to come and get the water turned on so that the bill will be in your name, he stated that he is opposed to the utilities having to be on because that is something that they never had to pay for. Mayor Pro Tem Litchfield commented that most buildings have electricity. Commissioner Mihm stated that's the point if the buildings have electricity then the building is being utilized for something. Mayor Pro Tem Litchfield stated so it's not considered vacant. Commissioner Mihm stated if you're using the building you'll have electricity on.

Commission adjourned at 4:56 p.m.

Submitted by:

Angelica M. Gray
City Clerk