

**City of Tukumcari**  
**City Commission Meeting Minutes**  
**June 23, 2016**

The Tukumcari City Commission met in a regular meeting on Thursday June 23, 2016 at 6:00 p.m. in the City Commission Chambers. Members present constituting a quorum were: John Mihm, Ruth Ann Litchfield, Robert Lumpkin, Amy Gutierrez and Ralph Moya. Mayor Pro Tem Lumpkin appeared via telephone.

City Staff members present were: Jared Langenegger, City Manager; Mark Martinez, Project Manager; and Angelica Gray, City Clerk.

Invocation presented by Pastor John Barrett from Center Street United Methodist Church. Pledge was led by Commissioner John Mihm.

**Public Hearing**

**Consider and Act Upon Ordinance 1138, Second and Final Reading, An Ordinance adding Chapter 5.30 of the Tukumcari Municipal Code to include Rummage, Garage, and Yard Sales, and providing for enforcement and penalties in the City of Tukumcari, New Mexico-** Mayor Litchfield suggested under 5.30.030 take out the two sales that were going to be community garage sales and allow everyone six garage sales and still require the permits. Commissioner Moya asked if it would six garage sales plus the two additional ones. Commissioner Gutierrez commented that there would still be six but it would take away the two on the specified weekends. Mayor Litchfield stated the permits would still be required but there would be no cost for them. Mayor Pro Tem Lumpkin commented that they had discussed changing the number from four to six and also giving people a chance to appeal and ask for another garage sale if the family needs it.

Mayor Litchfield asked for those who were speaking during the public hearing to keep it positive, no arguing and no name calling.

All those wanting to speak during the public hearing were sworn in at this time.

**Nick LeCompte-** He stated he was a business owner and he wasn't a garage sale person but he is concerned about people starting to pick here and there, before we know it our freedoms are gone. At the beginning of the meeting we had a nice prayer and then recited the Pledge of Allegiance and in the pledge we say "with liberty for all." The definition of liberty is the condition of being free for restriction or control, the right to act, believe or express in a manner of one's own choosing, the condition of being free from confinement and servitude. He stated he believes a person's home is a person's home and they should be able to take care of their home and they don't need someone to come down and tell them they need a permit to have a garage sale on their own property, on a house that they pays taxes on. He doesn't understand why something would be required if the City isn't going to be making money off of it. He was here two or three months ago when the Commission decided to postpone this and the next day we were out at the Convention Center and we had people who wanted to take our water rights away, its continually a battle. Every time we turn around someone wants to take our rights away. He asked how many signatures were on the petition, Ms. Gray stated there were two petitions and altogether there might be six hundred signatures. Mr.

LeCompte stated that's six hundred people that are arguing with doing away with garage sales. He stated that had spoke to the City Manager and asked how many people were complaining, Mr. Langenegger stated there were two. Mr. LeCompte stated two people were going to control six hundred people and the Commission wanted to take away garage sales. He is sixty-six years old and he can't believe there's a need for a permit to have a garage sale on your own property. The Commission needs to sit back, there are a people that need the income and if we were to close down all garage sales there will be no money coming in. He doesn't believe the Commission should let two people control six hundred people. He can't believe we're at the point where they have to get permission to sell things on their own yard.

**Jamie Bahrs-** She stated that the legal definition of civil liberty according to Webster online is freedom from arbitrary interference in ones pursuits as in expressing ones thoughts, practicing a religion or pursuing a living by individuals especially the government and especially as Constitution guaranteed. Also, tyranny because when a government decides that they are a power and they decide to use that power over the citizens that becomes a tyrannical government. Tyranny is suppressive power especially power exerted by a government. All too often people accept laws, even if they don't like them especially if the government tells them they are for their own good. More often than not laws are passed for our own good, they are not good for us at all they are good for the government, they increase government power or they enrich the system but they reduce our liberties. By passing foolish ordinances regarding the actions of citizens it will force them to commit crimes punishable by fines and imprisonment for actions as bizarre as having a yard sale, not mowing lawns to government specifications or eating something bad, two states have passed a sugar law. Government needs to be used as a guide to correct behavior in a population and not as an enforcement tool. Instead of making a law they should be guiding us. If someone has a grievance against their neighbor, the government or our city councilman, who we elected should say, it's the individual's responsibility to talk to their neighbor. You have two people complaining and six hundred opposing. To those that want to use the local government to control their neighbor, I say shame on you. Instead of using power over your neighbor use ethics, arbitration or even a Home Owners Association. To those who want to do whatever they want despite the fact that it encroaches on your neighbor's rights to a quite a peaceful life, I say shame on you. We need to become a town that treats each other ethically, take in consideration everyone's rights and we should not rob each other of our liberties of simple things such a garage sales or the right to private ownership and what we choose to do with what we own.

**Lynn Rogers-** Until last month we had a rental house here in Tucumcari and she was pleased with the cleanup ordinance because she was able to take a paper from the City to the tenant and say to clean up the property. I was really happy with that and now the Commission is doing something else and I'm not happy. The garage sale ordinance that you want to pass and probably will, I feel is pushing a little too hard on the people of Tucumcari. You've seen the petitions with well over six hundred signatures saying no to this new law. You say they don't understand it but I believe they do. I believe you're stepping on our freedom, our rights and almost everyone I talked to feels the same way. There is another way to solve this problem and that is to make an ordinance with the few people who have a business but call it a garage sale, create your own ordinance there and forget this one. This one isn't right, I don't care what other people in other towns and cities are doing, and this is Tucumcari. The people of Tucumcari don't want this you are supposed to be representing us not the other way around.

**Toni Leal-** The way I understand it, you are all suppose to be representatives of the people and I do know you received two petitions with at least three hundred signatures on each petition and that to me tells me what the people of Tukumcari want so my question to you is, what is it that the residents of Tukumcari have to do to get you to change your mind about trying to implement this. Mayor Litchfield stated that the Commission wasn't supposed to respond at this time and stated that each Commissioner would get to say something before they voted.

**Dena Mericle-** She stated that she would like to present new things for the Commission to think about before they voted. Some have stated that governing garage sales will help the City prosper. If you want the City to prosper we could possibly follow the wealthiest city in the state which is Los Alamos. They have no ordinance concerning the number of garage sales. She stated she spoke to the Clerk's office of Los Alamos and they said they think it should be one of the perks of a small community to get to do something like this, let it be something social that the town does. She called different cities all over New Mexico and so far there are over fifty communities that absolutely have no ordinance limiting the number of yard sales. I agree that this is our town and it doesn't matter if Clovis a town of thirty-thousand as one, we're Tukumcari. We are a little town and we love it and we want to be a little town and have that little town feel. If you are concerned with what other communities have done, over fifty of them so far don't have anything like this. Portales doesn't have anything. I spoke to Code Enforcement in Socorro and they do have some restrictions but the officer said he doesn't and wouldn't work Saturdays and doesn't feel that something so minor should be a concern of the police. She told him the concern is gross receipts tax and he said the small amount that would be made would be nothing compared to the salaries, you have to have someone to enforce it, someone to print out the permits, and someone has to be in the office to file and give them and they will have to know how many garage sales each person has had, so that money has to come from somewhere. We've been told there isn't a charge for the permits, so why is the City going to spend more money on Code Enforcement officers, she doesn't think it's necessary.

She stated that on Saturday the City Manager told her the word recall was an ugly word that is something that none of us want to do, but you saw how easily it was for Toni and me to get six hundred signatures. She stated that she spent under five hours and almost in no time without any effort we had six hundred signatures and it'll be several more if you give us several weeks to do it. If you know how recall works you only need to have 20% of the people that voted either in the last election or the average of the last four and I have gotten those numbers from newspaper articles, it won't take long to get those signatures. We don't want to do that, you work for us, you're our Commissioners, you're our Mayor, and we respect you all. You're working for us but we can do the recall, we've looked at the laws and if we have to we have to.

Yard salers will go to different communities to go to garage sales, and then they'll buy their groceries from Walmart and go to the mall, they won't go to Kmart, they won't go to Lowes, its already happening. You're going to lose other money from this community. She stated that she loves this town, she is from the mid-west but she has lived here twenty-seven years and she has participated in yard sales for twenty-seven years. Go after the people that are stealing gross receipts tax from the City. She stated that her family is very supportive of the community, they have a church, her daughter owns a dance studio, her son is the technology director at Head Start, her sister and her husband work in education at the public schools, her daughter-in-law is and RN and is the school nurse and the rest of the family is involved in various community activities. We are a part of the community and we love it, we work for it and help the community. We don't want you to just

look at your signatures and read them, we don't just want you to hear our voices and the words that are coming out we ask you to listen.

We had six hundred signatures, we can get more but we don't need near that amount to get a recall to see if we can get people who listen to their constituents, because we are the people that put you in and we are the people that can take you out, we don't want to do that, we want a yard sale. All we want is to have the freedom to have a yard sale. Make an ordinance and go after the people that are cheating the City. Those of us that are that go to yard sales want to do is in freedom.

**Nicole Manley-** She stated that six garage sales a year is plenty. She stated that her family has a three car garage that is full of stuff and if we need one every month we would run out of items, long before we reached the six sale limit. There are many swap meets that churches and non-profit organizations put on, the people that would like to have more than the six can participate in those and help the community by helping the non-profit organizations be more profitable and give back to our community. If someone has that much stuff, in her opinion they are they buying and then selling and if that's the case then maybe a group of people need to get together and open a second hand store so that the whole town will profit not just individuals. When you have a lot of garage sales you are impeding on others freedom because we have to go around parked cars and I have to make sure I can get into my garage and that is my property. She stated that she can tell people that they can't park on her property but then her and her neighbor would have a problem. She stated as far as the recall goes it is very crass to try to bully our Commissioners into voting for something by threatening to recall them. Several people have mentioned the cost that it would take to print out the permits and do whatever needs to be done but the amount of money that would be spent recalling the Commissioners and having another election would be thousands of dollars.

**Ignacio Armijo-** If I wake up on a Monday morning and want to have a garage sale I should be able to have a garage sale. If people are parking on the street then its public street, they're not parking there all day they're just parking there to see the garage sale. If I get up on a Monday or Tuesday and want to have a garage sale I should be able to.

Mayor Litchfield stated that yes she has been threatened for a recall. She is sorry that opinions disagree but every time the Commission passes an ordinance and the public doesn't agree with it am I going to be threatened with a recall? She stated that she has spoken to people from her district and they thought the ordinance was okay, she didn't see any of their signatures on the petition. It's your privilege if you want to have me recalled, that's fine, that just means I can go see my kids more often. Someone commented that I was only in it for the money, there's not much money in it for all the meetings we have and the time that we put in. Mr. Langenegger will tell you when he first brought it up I said "you're going to mess with garage sales" and then he started talking about the ones that are buying in bulk and selling. Yes, we have only had two that have come publically and complained but I have had others that have said they have people in their yard on Saturday mornings and they are awakened at seven in morning by people ringing their doorbell asking if that is where the garage sale is, they just haven't come forward and she is sorry that they weren't here tonight, she had asked them to come. I've considered this a lot , I've talked about it to myself, I've prayed about it and I've thought very hard then you get pushed and what happens when you get pushed, do you dig in? Then if we give in then every time something comes up that the public doesn't like they're going to threaten me again. You guys have put us in a hard place too because now if we change our mind you'll think you can do it again. Garage sales are fun, I have no problem with garage sales, I go to them myself and I have one every summer. We're not trying to take any liberties away. Ms. Mericle stated that some cities don't have an ordinance but there are some that do and some limit

you to two, I thought we were being very generous by saying six. Yes, you will have to have a permit and it may cost a little more to have our code enforcement officers check them out. I've thought long and hard about this and I have a suggestion.

Mayor Pro Tem Lumpkin stated he would like to read a letter he has written. He feels everyone at the meeting knows his feelings on this. While listening to everyone speak his feeling were wavering back and forth and trying to think about what's right for the community. Mr. Langenegger said that he thinks it is a good ordinance but he wishes he wouldn't have brought it up, he gave the Commission a choice, and we could either forget the garage sale ordinance or just enforce the business permit. We don't want someone in a neighborhood conducting a business that is not zoned for a business and they don't have a business license and they aren't paying taxes. We have a way to correct those things. The problem was one neighbor was having too many garage sales and the customers were annoying and infringing on the other neighbor's rights, privacy and blocking driveways. Those things are a problem and should be corrected and they can be corrected. Another problem came up when we started looking into it and maybe some citizens are conducting a second hand business, they aren't paying for their permits, license or taxes and that's against the law.

Tucumcari has garage sales to help their homes and their families. Garage sales are a social event, family event and entertainment for the people of Tucumcari. I brought this up in a discussion before and was told that we basically under regulated, I know there are somethings that need regulations but some things don't need regulations. The ordinance is not telling people they can't sell things to their neighbors or their friends out of their homes. It was brought up tonight that those are their homes and in a way there's plenty of places where law enforcement has to make a statement that controls what people can do in their home especially when it comes to illegalities. We now have neighbors and friends and even families at odds and verbally aggressive with each other, that is not good for a small community, it's not good for any community and it's especially not good for a wholesome small community like we are. He stated that he might be referring to some aggressive language and maybe some name calling, those things are not how things get done.

I know I'm not threatened in this particular incident but I don't think we should ever threaten a recall based on something like this, if a person was doing something illegal, immoral or purposely hurting the community that is something different. The county has to meet a certain standard before they can recall and state offices have to meet a certain description before they can recall but City Hall doesn't. Raton and other small communities have had a problem with this because you can recall someone for no reason or for a very frivolous reason and that takes away from a position that sometimes needs to act in the benefit of the people. Now that statement, for the benefit of the people, I'm looking at that very seriously and have been. Sometimes we might pass ordinances that are a shortcut to forcing, making or mandating the public to follow a rule or follow an order, I don't like that either. I think we have to respect people's rights and their property rights such as what they do in their homes but also we could look at a lot of things that might work in this situation one thing that I think might have worked and maybe will still work is communication. I feel like most people in these meetings have been very respectful, I could hear there was aggressiveness and maybe looked at as a threat or ultimatum and those aren't ways to get things done.

Originally I asked if we could sit down and talk to some of these people that designed the petition and ask them how many garage sales would be enough and how many garage sales would work to protect the neighbors from having too many garage sales and maybe look at a compromise. I think there's still a chance for communication. I talked to the Mayor, I don't want to put this off because

the more we drag it out the worse it gets. Maybe if we're communicating with everybody with the understanding that we're trying to do something with less force and more palatability. Originally there were people signing the petition that thought they would have to pay for the permits and that rumor went around like wildfire and there were a lot of people that signed because of that. They might have signed and might have felt the way they did because they did not understand, that's our fault if we say something we need to make sure it's out there for everyone to understand.

Mayor Pro Tem Lumpkin stated people have property rights, Mr. LeCompte talked about property rights and we also talked about garage sales being a social event and entertainment, that's a quality of life. I'm talking about community and friendship and everyone agreeing on something and everyone working together to reach the same goal. Remember one of the objectives is to make sure we don't infringe on the neighbors rights. Another objective is that we don't let people abuse our licensing, and gross receipts tax laws, the state voted for those and they are well needed. One thing that we didn't mention, whichever direction that we go, if rule gets broken what are the penalties and who assesses them, will it be written in the ordinance if you do this you get a fee or a ticket or does the judge decide. That is important to think about. We're talking about a penalty for having a garage sale.

He apologized for not being at the meeting, he stated he had a very small window to spend quality time with his son and daughter this summer. I care about what people think, I care about the six hundred signatures and I care about people that are passionate enough about an issue that they come to meetings, that's a good thing. I think we could also sit down as a community and work this out without hate or vendetta. I myself don't feel comfortable voting for the ordinance as it is and I don't feel comfortable putting things off. We have a great and caring community and we do have people that need to have garage sales, I'm not one of them. I give my stuff to the secondhand stores and to charitable organizations, which might be an answer to some of those things. If they want to have commercial locations they can become a secondhand store or they can work on commission and give their things to someone else. These things can be discussed.

Commissioner Mihm stated that he understands everyone's point, he understands the perceptions of limitations of liberty and I also understand that when we live communally and without rules we have chaos. There are a lot of ways to look at this, we all live under rules. I have to make a decision tonight that may or may not be favorable, it may or may not ensue the act of recall or the threat of recall but nonetheless I have to make a decision. I have been really torn with this because personally I don't care about yard sales I am not threatened by my neighbor having one, nor would my neighbor exceed six yard sales a year. That's where I'm really torn with this. Six yard sales a year I don't even think I could round up that much junk.

When you get title insurance the legal description of property zoned residential use, there's a term that I like, identified as quiet enjoyment. I have often thought why this term is used and now I found out today what that was specifically for but that term does make sense to a lot of you when you buy a home. This particular ordinance in one way enforces this term. If you reside on this property then you have the obligation to enjoy that property quietly and so do your neighbors. If you encroach on your neighbor's rights and they cannot quietly enjoy their property and that's identified by one person. I have had a lot of people come to me and have stated to get this ordinance going. You're encroaching on their rights then you make government encroachment on how you see what your rights are, it's a very sad harsh reality but we live communally. We as a commission have decisions to make and they're not always favorable to everyone but we still have to make them and we have to

come to a compromise. This ordinance started out with two or three sales a year, so we are compromising.

If you violate your adjacent properties rights for the quiet enjoyment of their property, they have the right to go after you civilly. In a town that is so small when you go after someone civilly, without any governmental control, without an ordinance in place you really don't have a leg to stand on, you're just a victim of your neighbor. When quiet enjoyment of your property is compromised we as the governing body have an obligation to identify that it's being compromised and this ordinance has two very distinct sides but that does not negate our responsibility as the governing body, the commission, to respect and adhere to the quiet enjoyment clause that I read about when I bought property. We have a commitment to the community, both sides of the community to come to a compromise. To protect the tradition of a yard sale culture, which is something I wasn't aware of until this ordinance came up. I feel that we have been a very effective commission and we haven't been held to the fire very often but it has to come. I've been told both sides of that argument. What we're trying to do is solely identify a business and a yard sale and where is the line, how many yard sales does one individual need? If everyone has six permits a year and everyone that has yard sales has their six yard sales, realistically they can go to their neighbor or friend and ask them to get a permit and to have the sale in their yard. Are we saying you can't have a yard sale, no. Are you saying can we come to a compromise, just like Mayor Pro Tem Lumpkin said, there's a compromise there we only have to make the law and we all know there are ways to circumvent every law without breaking it but I have to make a decision based on the people that have come to me.

District Five is not a huge yard sale district but there is one in particular that has caused an individual grief in his home. Whether anyone agrees with his writings and how he addressed that is irrelevant he still has the right to the quiet enjoyment of his home and he's not opposed to them having six yard sales, he's opposed to them having thirty. I have to make a very difficult decision and I have to sadly be threatened with recall, it makes me very angry to be threatened with that, I have not missed a meeting and I'm in the last round of my term, no one else made it two and a half years. I'm dedicated to my city, I love my city. If my city rebukes me I have to decide whether or not this is my city but I do love it currently and I have to make a decision based on a complaint and if we don't address the complaint and it is valid we're not governing. I have to make a very hard decision tonight and I may pay the consequences of that decision but that's God's will.

Commissioner Gutierrez stated that there are those that have come to her both for and against and I have listened to both sides, I respect everyone's opinion we aren't trying to take your rights away but we are trying to put something in place that would be across the board for everyone regardless if you live on the north side or live on the hill, it's across the board for everybody. Six yard sales is more than enough, I truly believe that. We're not trying to take anyone's rights away or liberties, we're just trying to get a reign on the misuse of yard sales. We do respect you and applaud you for coming and bringing forth your opinions.

Commissioner Moya stated that he has thought about this for a long time and has looked at it in many ways. I did look at the petition and spoke to some of the people that signed. One of things that we need to clarify that this ordinance will be inside the City of Tucumcari, I saw some signatures that were not in the community. I did talk to some of the people in my district that voted for me and their names were on the petition. Some pointed out to me that when they signed, it appeared that we were going to have this massive charge and that we were going to control it. When I explained the concept behind it is that when you live a communal society you have rules and regulations and a

group of people can get along you have limitations and you also have the right and the freedom to do what you're supposed to do but at the same time the community has a responsibility to the residents and the residents have a responsibility to the community. I talked to some people and they said they don't have a problem with six. I work in a field where people have a lot of financial difficulties and in my office we work with pharmaceutical companies if someone needs help paying for medicine. We do have some wonderful organizations such as Saint Vincent De Paul and La Casa De La Hope and they will help people with utilities and other things such as energy assistance. If we have someone that is really having a hardship there's a lot of aid and that's what's so beautiful about a community because we implement these things for the betterment of the community. After reviewing some of the garage sale problems we were having with some of the people in my district, they don't see a problem with six permits so I asked why they signed the petition and they stated the person asking was their friend.

Mayor Litchfield stated that she would like to propose something to the Commission, that the Commission table the ordinance right now and re-visit it and maybe have a task force come in and have a work session and get some people from the community to come in and sit down with us. Commissioner Moya stated no, this is getting to the point where this is becoming more of a crusade rather than an ordinance or rules and regulations, if we feel that we cannot continue to enforce and make rules in the best interest of the community the best thing is not to table this but to do away with it so we need to stand up and face the music. Commissioner Gutierrez stated she agreed the Commission needs to vote.

Mayor Pro Tem Lumpkin commented that he would like to remind the commission of his suggestion to be able to appeal for additional sales and the penalty. Mayor Litchfield stated that the penalty part of the ordinance had not been discussed. Mr. Langenegger stated that the ordinance states that all penalties go before the judge, so if a person violates this ordinance they would get an order to see the judge, they would make their case in front of the judge then the judge would determine the penalty. There isn't a pre-set penalty set within this ordinance. Mayor Litchfield asked if there was some way they could give the judge the authority to make the penalty as he sees fit. Mr. Langenegger stated that is the way it's written. Ms. Gray read under enforcement and penalty "it is unlawful for any person to engage in a garage or yard sale in violation of the requirements of this chapter. Any person who violates this chapter shall be subject to the penalty imposed by Section 1.12 of the Tucumcari Municipal Code". Mr. Langenegger apologized and stated that he thought the language was in there. They go before the judge, the judge makes a decision and can fine them up to a certain amount but not above a certain amount. The judge doesn't necessarily have to fine someone he has the discretion based on the person's arguments.

Mayor Litchfield stated that they needed to amend part B of 5.30.030 to make it so they can have no more than six garage sales. Change it from four to six. Ms. Gray stated that the citizens that spoke have the right to rebut the Commissions comments.

**Toni Leal-** You mentioned you had a complaint about trespassing and the noise and I'm wondering if we already have noise and trespassing ordinances that would take care of these problems. Commissioner Mihm stated that we do but the problem is when it comes to this particular ordinance it does have to identify it as a yard sale and as a nuisance. If we make no definition it's still a free for all. The only thing the person can do is complain and they can take them through civil court. The problem is a particular individual is more afraid of retaliation and asks why there isn't a law and that's why we're here. Ms. Leal stated that she thinks maybe the way it's being said is offending the

people, it feels like you're taking our rights away by saying there's a limit of six. If we could say something if you have over six then we'll check into your business. Mr. Langenegger stated that the reason the ordinance is written how it is, is to get away from private businesses and second hand stores operating and calling themselves a garage sale. If we don't define what a garage sale is anybody in the city can sell whatever they want, out of their house, on a daily basis if they wanted to and whenever code enforcement went to talk to them about running a business they can say no I'm having a garage sale. If we don't define that people can say we're having a garage sale. We do have noise ordinances in place and ordinances for parking and trespassing. Ms. Leal stated we have those and we want to add more, we can't take of the problems with the ones we already have? Mr. Langenegger stated if we could take care of the problems with the ordinances we already have we would be doing that. Ms. Leal asked if we enforce those ordinances, Mr. Langenegger stated yes we do.

**Dena Mericle-** She stated that when she first read the penalties that can be enforced, it stated you can have a penalty up to a \$500 fine or up to ninety days in jail. If it's up to the discretion of the judge, if some elderly person has their seventh yard sale is the judge actually able to impose the fine up to \$500 and ninety days in jail or has the wording changed so it wouldn't be such a hard penalty for those that aren't following the ordinance. Mr. Langenegger stated whenever a citation is sent into court the individual that's cited has the opportunity to make their case. The judge hears the arguments and decides the penalties. If the judge agrees with their argument then he could dismiss it, there's nothing in the ordinance that requires the judge to impose a fine. Ms. Mericle asked if he wants to give someone the full penalty what the wording is. Mr. Langenegger stated that if the judge decides to give someone the full penalty. Ms. Gray stated that these penalties are the maximum penalties so it can be anywhere up to the \$500 and ninety days. Mr. Langenegger stated that the maximum penalty says unless a maximum penalty or a lesser penalty is established by ordinance for a particular offense, the maximum penalty for any municipal ordinance shall be as follows except for those violations or ordinances described in subsection B and C, a fine of no more than \$500 or imprisonment for no more than ninety days. That doesn't mean that's the sentence that comes through, that's the maximum. The judge gets to decide what the penalty is. If the judge decides and the person doesn't agree with that penalty they still have the right to appeal that to district court.

**Ignacio Armijo-** He stated that basically the people are being threatened now because we can only have six yard sales and if we have more we go to jail. Basically what you're doing is knit picking one at a time and taking them to court. What if the whole city exceeds those six, are you going to put everyone in jail? They're having garage sales to make extra money but you're still making them pay extra money or putting them in jail. A lot of people are on a fixed income and doing what they can to survive in this town because everything is dying, you go down the streets and you don't see anything, there's no businesses it's dead.

**Dena Mericle-** She stated that she realizes she is one of the instigators of this because the ordinance made her very unhappy and feels as many other people do that we are taking away our rights. On the other hand I feel that I am a reasonable person. I like what Mayor Pro Tem Lumpkin said and what Mayor Litchfield suggested about having a task force, with people on both sides of the issue. The town is angry and I apologize for some of the things that have been said on Facebook pages, I didn't say those things. The only thing that I said that wasn't liked is we do have a due process of law for recall if we feel you aren't listening to us, all we want is for you to listen to us. I really appreciate the fact that you threw the two extra in and took it away from the holiday weekends because that doesn't work for a lot of people. When I lived in town my neighbors had a barbeque every single

weekend and it was noisy but I didn't complain because that was their family but my quiet enjoyment was ruined for fifteen years so we moved. I now live in the county, we have a church that will very soon be non-profit and I can have yard sales there every day because it's not included and I can have yard sales every day at home. I'm not even fighting for me, I'm fighting for those that have come to me, and I'm trying to be the voice. I really like what the Mayor said about looking at it again. We didn't know about the six until we walked in the door, we didn't have a time to process is and I didn't have time to talk to people and tell them you're making a compromise. I'm the one that said recall, I'm the one that has the gumption to get the signatures, I don't mean it as a threat I can get the signatures but I don't want to do it. You people work for us and we're the people you're working for we just really want to be heard. Maybe if you could think about it that would stop a lot of what we're feeling and we could be that happy community again.

Commissioner Mihm made the motion to act on ordinance 1138 with the amendment including the six yard sales and the petition for the additional sales and Commissioner Gutierrez seconded the motion. Roll call:

Moya	Mihm	Litchfield	Lumpkin	Gutierrez
Yes	Yes	Yes	No	Yes

**Consideration of Changes or Deletion to Agenda**

Ms. Gray stated that item 8A should read Consideration of Senior Programs Agreements and item 9C should read Consideration of Amendment Number two.

Commissioner Gutierrez made the motion to approve the agenda as amended and Commissioner Mihm seconded the motion. Roll call:

Litchfield	Moya	Gutierrez	Mihm	Lumpkin
Yes	Yes	Yes	Yes	Yes

**Approval of Minutes**

Commissioner Mihm made the motion to approve June 9, 2016 Work Session Notes and Commissioner Gutierrez seconded the motion. Roll call:

Lumpkin	Gutierrez	Litchfield	Moya	Mihm
Yes	Yes	Yes	Yes	Yes

Commissioner Gutierrez made the motion to approve June 9, 2016 Commission Meeting Minutes and Commissioner Mihm seconded the motion. Roll call:

Moya	Lumpkin	Mihm	Gutierrez	Litchfield
Yes	Yes	Yes	Yes	Yes

Mayor Pro Tem Lumpkin asked to be excused from the rest of the meeting and thanked the Commission for allowing him to appear by phone.

**Proclamations**

**Proclamation of Appreciation for Elder Arave and Elder Preisler for their Volunteer Service to the Community-** Mayor Litchfield presented this proclamation to Paula Neese.

Ms. Neese stated that Elder Preisler wanted to be here but got stuck in Santa Rosa due to the storm.

**Ordinances and Resolutions**

**Resolution 2016-16, Reuse of Two Funds for New Cost Activity-** Dennis Dysart presented this item to the Commission. He stated that this resolution is to make the Commissioners aware of the need for new funds. Rather than create new funds we can reuse funds that have not been used recently. The funds are for Code Enforcement we're using the old dispatch fund and the other fund we're going to have is for the repairs for City properties.

Commissioner Moya stated if we're using some of the funds from dispatch, is there a lot of money in it? Mr. Dysart stated that it is to be in the general fund and under the request from the committee they wanted to have a separate fund so we moved that. The fund that we want to use now is not being used. The dispatch funds are still in the special revenue funds. Mr. Langenegger stated that Mr. Dysart isn't talking about money he's talking about a placeholder for that money. We're basically renaming that fund so we have a place for code enforcement.

Commissioner Mihm made the motion to approve resolution 2016-16 and Commissioner Gutierrez seconded the motion. Roll call:

Mihm	Litchfield	Gutierrez	Moya
Yes	Yes	Yes	Yes

**Resolution 2016-17, To Commit Budget Funds from the General Fund as an Emergency Reserve-** Mr. Dysart presented this item to the Commission. He stated that this is a legal procedure that places within the Commission's authority to make a legal determination that these funds are set aside for emergencies, we've been doing this since 2010. We never needed to use them until this year when we decided to use it for Sands Dorsey and the purchase of an ambulance. We're using a legal procedure to set the money aside and to identify to the state government that it's committed and not just lose money. Anytime the money needs to be used it will be brought before the Commission.

Commissioner Moya asked if this money is from the general fund and Mr. Dysart stated yes, it's a placeholder and can be used for other things. Commissioner Moya asked if the general fund can afford to pull this money out because of the deficit. Mr. Dysart stated at this time we can. Since the recession in 2008 we have been very conservative. We restricted a lot of salary raises and a lot of spending and as a result we haven't taken a lot of downfall that several places in the state have. We're in a very good position. Commissioner Moya stated that we have a skeleton working for the community and as a result it's caused problems and now we want to take money out of the general fund to utilize a special fund for emergencies. I'm all for having an emergency fund but at the same time if we're cutting down to much we're not going to provide the services that we're required to. Mr. Dysart stated that the money isn't coming from the general fund and we're placing a restriction so any spending has to come before the Commission.

Commissioner Gutierrez made the motion to approve Resolution 2016-17 and Commissioner Mihm seconded the motion. Roll call:

Moya	Mihm	Litchfield	Gutierrez
Abstain	Yes	Yes	Yes

**City Manager’s Report**

Mr. Langenegger apologized for not being present and apologized for not being as prepared as he should be but there were a couple of personal things that happened this week.

The chip seal project on the streets that are in the area South of Washington has begun. We’re having a little bit of a learning process. The oil that we put down isn’t as good as it should be so we might have to go back and double penetrate some of the streets. Our City crews haven’t chip sealed in quite some time so it’s a bit of a learning process. We have Pacheco’s Construction helping us and we’re working really well together. As of yesterday we had Sixth, Ninth, and Buena Vista streets are down. Once we get these first few roads done we’ll know if we need to adjust anything to make the project move along.

We had a Water Shed Based Plan meeting for Ute Reservoir last week; we’ve been working on this for a couple of years now. We received a grant for this and Mark Murphy is helping us draft this plan. We have the first draft of the plan available we have some changes that we are making to it, he’ll be getting those edits to us this week or next. Once I receive that draft I’ll send it out to the Commissioners to let you review and get an idea of what the plan is. Basically it’s looking at preserving water quality at Ute Reservoir and the water shed. We’re looking at things we can do as a community to improve the water quality that goes into the reservoir that we all rely on.

We’re moving forward with the waterline project. The engineers are working on getting us the final suggestions for the waterlines. We have a JCH that makes our decisions for the sewer. So we should be getting ideas on how to improve those areas so that we can develop. We are working with EPCOG working at looking towards a grant we’ll have to get information from our engineers before perusing that grant.

**Bids & Contracts**

**Consideration of Senior Programs Agreements-** Clara Rey presented this item to the Commission. These are the contracts for the senior programs and the contracts will be with Nutrition Service Incentive Program (NSIP) and the Economic Development District Non-Metro AAA. This is the money that helps us from the state and federal side that helps us to provide senior services. This will be for the Tucumcari side only in the amount of \$276,886.

Commissioner Moya asked how much of that money the City puts in. Ms. Rey stated \$86,144. This will be a learning year because this is the first year that Tucumcari only sponsors the Tucumcari side. There was no way to separate Tucumcari, Logan and House so this will be a learning year to see what it costs for each one so we had to go based on employees and number of units that were served and so on. Commissioner Moya asked how many employees the senior center had. Ms. Rey stated they currently have a part time cook, a part time cook’s helper, part time van driver, a full

time site manager, a part time assessor and on July first my position will change to part time contractor. Commissioner Moya asked if she thinks the City's contribution would go down in the future, she stated she hopes so and they are working very hard to make sure they're doing things that are economical as possible, we've had to make so unfortunate changes in services. For instance, right now we have one van driver, we are not reducing services but we are managing them better. She stated that without this service that some people would not be able to eat.

Commissioner Moya made the motion to approve the Senior Programs contracts and Commissioner Mihm seconded the motion. Roll call:

Litchfield	Moya	Gutierrez	Mihm
Yes	Yes	Yes	Yes

**Consideration of Lodger's Tax Engagement Letter for Audit and Consideration of FY 2016 Audit Contract--** Mr. Dysart presented this item to the Commission. He stated that he had two contracts for audit. This one is for the Lodger's Tax Engagement and the other is the annual audit that we are required to have every year. Last year was the first time we had the Lodger's Tax audit it brought about \$600,000. This audit is very similar to the federal audit that we are required to have if we have over \$300,000 in federal money. Our annual audit has a federal audit in it also. This audit is strictly for the Lodger's Tax to ensure compliance.

Mayor Litchfield stated this audit was with JJ Griego.

Commissioner Mihm made the motion to approve the Lodger's Tax Engagement letter and the FY 2016 Audit Contract and Commissioner Gutierrez seconded the motion. Roll call:

Gutierrez	Litchfield	Moya	Mihm
Yes	Yes	Yes	Yes

**Consideration to extend Legal Services Agreement with Miller Stratvert P.A.-** Mr. Langenegger presented this item to the Commission. He stated that this contract is for an attorney to provide personnel services to us. With one hundred forty two employees the City often runs into times where we need a personnel lawyer. Our regular attorney is Randy Knudson out of Portales and he provides us legal advice on various matters but personnel matters are a little more specialized. Last year we looked for a personnel attorney we selected Virginia Anderman from Miller Stratvert offices. This is an as needed contract so we aren't committed to a certain amount of money but if a situation arises it allows us to contact them.

Commissioner Moya asked how much the contract was running. Mr. Langenegger stated that being out of the office he didn't have that information with but he believes last year was around \$5,000 and Ms. Gray stated that she believes it was about \$4,200.

Commissioner Gutierrez made the motion to approve the Legal Services Agreement with Miller Stratvert and Commissioner Mihm seconded the motion. Roll call:

Moya	Mihm	Gutierrez	Litchfield
Yes	Yes	Yes	Yes

**Consideration of Contract with Ricoh-USA-** Angelica Gray presented this item to the Commission. She stated that after several discussions with Jonathan Matthews, our Ricoh representative and lengthy conversations with our department heads, I believe we have reached an agreement for Ricoh to provide us with copier services. This agreement includes all toner, staples and any maintenance that is required to keep the units running. This agreement is for a forty-eight month term and includes twelve units. The savings that we are looking at is \$800 to \$1,000 per month. Of course that amount is subject to change if that department increases the impressions made. I am fairly confident that we have reached the best agreement and it is the most advantageous to the City.

Commissioner Moya asked if the City received bids for this. Ms. Gray stated that Ricoh is a member of US Communities and WISCA and we're members of US Communities as a co-op service and therefore we did not have to go out for quotes.

Commissioner Gutierrez made the motion to approve the Contract with Ricoh-USA and Commissioner Mihm seconded the motion. Roll call:

Mihm	Litchfield	Gutierrez	Moya
Yes	Yes	Yes	Yes

**Consideration of Ambulance Purchase-** Mr. Langenegger presented this item to the Commission. He stated this is a request to purchase a new ambulance the cost is \$127,686. The EMS fund received a grant for about \$95,000. The City would need to make up the remainder of the price. When we found out we received the grant we started looking and the last ambulance we purchased was \$110,000. However every year the regulations for what you have to have on it change. \$165,000 is already grandfathered in and if we purchase an ambulance now we will receive that money next fiscal year and we are guaranteed the price of \$127,686. With the grant the City would have to make up about \$30,000.

Commissioner Gutierrez made the motion to approve the purchase of the ambulance and Commissioner Mihm seconded the motion. Roll call:

Moya	Mihm	Litchfield	Gutierrez
Yes	Yes	Yes	Yes

**New Business**

**Consideration of waiving Convention Center fee for Rattler Reunion-** Mayor Litchfield stated the Rattler Reunion has happened here for years and the committee would like to continue having it here. She feels it's a service to the community because it's a good place for everyone to meet and the Convention Center is a great facility.

Commissioner Mihm made the motion to waive the Convention Center fee for Rattler Reunion and Commissioner Gutierrez seconded it. Roll call:

Litchfield	Moya	Gutierrez	Mihm
Yes	Yes	Yes	Yes

**Consideration of Changer Order #5 for Metro Well Field Water Transmission Line Project-** Mark Martinez presented this item to the Commission. He stated that this change order will increase the construction costs and time of the project. We're towards the end of this project. There will also be an additional seventy-five days added to the project. The price increase will include connecting to well number ten to the new water transmission line. This part of the construction process wasn't included in the original plans due to an oversight but its pertinent to providing water to the city. Another item includes replacing approximately six hundred and fifty feet of an old well line that transports water from well number eight and ties it in near well number seven. Currently well number eight is not in service because of the existing water line is in poor condition. There were other items that were increased and deducted in this change order to balance it. There will be an increase overall of \$112,993.13 including NMGRT but with that increase that's still original funding for the project. We have completed the initial phase of the project everything we initially wrote the grant for has been completed successfully so this was additional funding that was left over. With this change order we are still under budget for this change order.

Commissioner Mihm made the motion to approve Change Order #5 for Metro Well Field Water Transmission Line Project and Commissioner Gutierrez seconded the motion. Roll call:

Gutierrez	Litchfield	Moya	Mihm
Yes	Yes	Yes	Yes

**Consideration of Amendment No 2 for Engineering Services with Forsgren Assoc. Inc., for Metro Well Field Transmission Line Project-** Mark Martinez presented this item to the Commission. He stated this is all tied in to the previous item. Associated with there are additional things that need to be done on the engineering side since they are providing more work outside of the original scope. This will include two days of construction, inspections, coordination, processing and additional pay requests. The increased services are for plans and specifications for pvc water line. It's only an increase of \$3460 without GRT and it still falls within the original grant funds.

Commissioner Gutierrez made the motion to approve Amendment No 2 and Commissioner Mihm seconded the motion. Roll call:

Moya	Mihm	Gutierrez	Litchfield
Yes	Yes	Yes	Yes

**Public Comments**

**Anistacio Montoya-** He stated he was here tonight because has been harassed a lot by a City employee. He stated he is trying to clear his yard but has suffered from a heart attack. He has received a \$300 fine for weeds and having items in his yard. He stated he doesn't think it's fair to harass people over seventy years old especially if they have bad health. The City made me spend \$1,800 for cleanup it wasn't much I could've done it slow but there was pressure to get it done.

**Carlos Perea-** He stated that he is eighty-eight years old and I've lived in Tucumcari for seventy-five years and this is the worst I've seen Tucumcari. Tucumcari is dying and here you are saying clean, clean, clean and you're picking on the old people. He stated he was fixing his lawn mower and Code Enforcement Officer Monika Garrett told him he couldn't have it on the street and told

him she was going to write him up. He also stated that he owns his property and property across the street and she went and took pictures of his yard.

Commissioner Moya stated that he was going to ask Mr. Langenegger to look at Mr. Perea's property because he knows he keeps his property very clean.

Mrs. Perea stated that she has seen Ms. Garrett many times taking pictures. She stated there are weeds on Main Street and the property belongs to the City, what are the employees doing that they can't cut weeds? She stated the City needs to leave people alone. Mr. Perea commented that Ms. Garret told him he couldn't work on cars on his property, that's ridiculous. Mayor Litchfield thanked both of them to bringing this to the Commission's attention.

**Gail Sanders-** She invited everyone to a ribbon cutting tomorrow at 4:00 p.m. at 125 E. Main Street for Farmer's Insurance and Main Street boutique.

**Nicole Manley-** She stated that she knows the deadline on this has passed but she hopes the Commission will take this into consideration next year. This is in reference to fireworks and the amount of times people are allowed to set them up. I believe the ordinance states June 20<sup>th</sup> until July 6<sup>th</sup>, it doesn't say any time just the dates. We have a lot of veterans in our community that suffer for PTSD and TDIs, many go to sleep early when you have fireworks going off at 9 p.m it doesn't make for a restful period for them. I've heard people say they can't go back to sleep because they are on high alert for the rest of the night. I know it's too late this year maybe you'll consider adding something that fireworks aren't allowed after a certain time.

**Rick Haymaker-** He stated that there is a program called Penn and Teller on YouTube and you can watch those guys show the different peculiarities of people's personalities, there's an episode where they get people to sign a petition but they are ill-informed. Petitions are always at the tail end of a matter and it's interesting that all the petitioners are gone so they can hear all the good things that Tucumcari is doing. The Commission has labored hard over these ordinances, they were not meant to be menacing they are meant to help. If you recall one Commissioner that costs all of us \$3,000 or more. Most likely the Commissioners that were elected will be re-elected so everybody loses. My question is how long do we need to put up with petitions from County residents for City matters. We're talking a potential of \$15,000 that the City residents will have to pay, not county residents. I speak for many that didn't get sworn in tonight because mostly the majority is silent, that's just the way it is. We are for you, we support you. Commissioner Moya I appreciate you stand on going ahead with the six yard sales, I think that is very fair and I know I'm not the only one. I support what you guys are doing and I know many do. I want to thank you all for your service.

I want to thank you guys, it has been a two year struggle for us to find a viable industrial building for a business dream and because you have worked so hard on the nuisance ordinance that dream is going to come true.

### **Items from Commissioners**

Commissioner Mihm thanked everyone for coming.

Commissioner Gutierrez thanked everyone for coming and for their patience. She stated that she wanted to remind everyone with the Fourth of July holiday coming that there are events around

town, Logan and Conchas so if you can attend those and show support. The CRC Champion challenge will be here on the second and you can call (620)-621-4616 for more details. Also, if you haven't purchased your Logan Chamber of Commerce tickets for their annual raffle you can contact Ashley Osborn at 487-2284 for a ticket.

Commissioner Moya stated that he has been in Clayton and I was able to see the Yucca theatre it was really nice, the way they renovated and fixed it. One of the things I would like to recommend to the Mayor and to the Commission, that we appoint a seven member task force that will report to the Commission and let us know what direction to go with the Princess Theatre. Hopefully the City can save it since it will cost us \$350,000 to tear it down. That is the same amount we need for the purpose of matching the funds that is available to us. Not only is the theatre important historically it will provide a good service for the community. We have to look at it historically in order to get the grants that are needed. I know we have several vacancies on some boards and I haven't seen anyone interested in the boards so the Commission should be able to recommend someone who we think would be good. I would like to have a good work session so we can examine the ambulance funds, I know the city is doing everything it can but we need to look at it because we are not receiving money from the county. We need to start working with the county if we are providing services to them. We are doing everything we can to secure the safety of the people. We need to start looking at ways to preserve money to be able to add extra personnel so that we can provide extra services.

Mayor Litchfield thanked everyone for coming she also thanked Mr. Montoya and Mr. Perea for their comments. She stated that it is not just the Hispanics that are getting cited. She stated she hopes everyone will support the Commission.

**Adjournment**

Mayor Litchfield asked for a motion to Adjourn. Commissioner Mihm made the motion to adjourn and Commissioner Gutierrez seconded the motion. Roll call:

Mihm	Litchfield	Gutierrez	Moya
Yes	Yes	Yes	Yes

Meeting adjourned at 8:20 p.m.

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Ruth Ann Litchfield, Mayor

ATTEST:

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Angelica M. Gray, City Clerk