

**CITY OF TUCUMCARI  
CITY COMMISSION  
Work Session Notes  
December 3, 2015**

The Tucumcari City Commission met in a work session on Thursday, December 3, 2015 at 5:00 p.m. in the City Commission Chambers. Members present were John Mihm, Ruth Ann Litchfield, Robert Lumpkin, Amy Gutierrez and Rick Haymaker.

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

Guest: Patrick Vanderpool, Director of Economic Development.

**Discussion regarding EDC**

Mr. Langenegger stated that he would like to discuss the EDC reports that have been given. The contract was redone in May and we asked for a different format of report from the EDC in order to get more information, detail and some more transparency on the projects the City and the EDC are working on in order for us to be more transparent to the public in terms of how the money that is provided to the EDC is spent. Currently we have received two reports from the EDC. Mr. Langenegger stated that he wasn't happy with the first report. Mr. Vanderpool had a lot of questions and concerns about what information he was providing based on confidentiality. After the first report, Mr. Vanderpool and Mr. Langenegger had a discussion and everything that Mr. Vanderpool felt he couldn't provide was deleted from the format. The second report was an improvement from the first report, but Mr. Langenegger still wasn't very happy. The report was put together in a bullet format, there wasn't a lot of detail, and there were several questions concerning existing projects and how they were meeting their participation agreements. Mr. Langenegger stated that we wanted the Commission's input on the report to make sure he wasn't asking too much. However, he still feels that whenever a business receives public money we are entitled to receive certain information and it is important to keep up with these projects and make sure they are meeting their participation agreements, if not we know why and we can decide what we can do to fix that. There were questions regarding the number of employees the employers were reporting and the number they actually had and maybe there were some issues that needed to be worked out with the employers reporting.

Mayor Lumpkin stated that he is on the EDC board along with Commissioner Mihm and as far as transparency of finances for EDC he understands that certain information cannot be divulged so future developers or business owners aren't afraid to come to Tucumcari. He understands the consequences the lack of discretion can cause but he believes the EDC can be more transparent. He stated that he wants the rest of the EDC board to know the Commission understands that some discretion is necessary in certain cases. However, they are not asking for information that would cause problems for the businesses in Tucumcari or future ones.

Mayor Lumpkin stated he had questions about the money spent for EDC trips, the EDC goes on some trips and he isn't sure that the City of Tucumcari isn't seeing all the benefits. Some can be very expensive and sometimes there isn't a lot gained from them. He wanted to look at the possibility of maybe spending that money that would go to trips for other things for the City. He stated that he doesn't think the money is being spent improperly. Commissioner Gutierrez commented that she

thinks there should always be a detailed expense report regardless of what it is for, to show where the money is being spent. Mayor Lumpkin stated that an government office such as County and City cannot give money from the budget to another business because of the anti-donation law but EDC can. He stated that the EDC could still function efficiently and be more transparent with their finances and achievements.

Commissioner Mihm stated that as far as reporting he is willing to disclose any needed information for his business but Mr. Vanderpool told him not every business will be so forthcoming and if they were to set precedence with his business, future business interest may be deferred from using EDC or even considering our City because they may not be comfortable with that transparency. He thinks a case to case basis is the best way to go, if a business is comfortable with transparency that's fine but precedence cannot be set up so we have to require it for every company. Mayor Lumpkin stated that he wasn't looking for every business to disclose their business plan or finances but for the EDC to disclose detailed spending. Mr. Langenegger stated that in the reports he is asking for the business to disclose that information but only the information that is tied to the project participation agreement. He stated that they are interested in knowing whether the businesses are meeting the requirements set by their project participation agreements and without them reporting there is no way to know. He understands some businesses not wanting to disclose that information but once they accept the money from LEDA for a project, it outlines the agreement is to provide a certain amount of employees at a certain amount of salary and a certain amount of gross receipts. This is how we can justify giving a project money because they are providing a benefit back to the community.

Mayor Lumpkin asked if he felt that would prevent any business from wanting to come to town. Mr. Langenegger stated that it may defer them from taking money from LEDA but that is the way it is set up. The state now wants to get more accountability as far as reporting to see how that money is being spent. There is a new agreement for the Odeon Theatre that is looking to be approved that states that the Odeon will have to provide TRS reports that shows their employees' salaries. He discussed this with Mr. Vanderpool and his concern with making that public information is a valid concern because Social Security numbers and dates of birth are also listed. That information is protected by IPRA so that information can be provided but we can redact personal information but employees and their salaries would still be listed. He stated if a business wants benefits they are going to have to give up something, they can't get something for nothing. We have to be able to show taxpayer's their funds are being utilized appropriately but if there are no reporting requirements how are we able to show them.

Mr. Vanderpool stated that the State is looking at this issue. He was invited to sit on a task force to create a metrics and accountability statute, one of the issues is how we collect data on job creation without violating federal laws in terms of disclosure of that information. This will be an ongoing process over the course of the year as we get better at it our reporting will get better. It will be a process in terms of defining what we can and can't do. CDBG projects for instance have to report employees and salaries but they redact information that is considered confidential that is a possible way to do it. In the mean time we have to do the best with the data we are able to collect.

Commissioner Mihm stated that we need to get clarification from the state as far as what they are requiring on their projects and reporting and we can follow suit. If they are not requiring reporting at this point in time we shouldn't make it a requirement to report either. Commissioner Gutierrez stated that she didn't agree with that because regardless of what the state is doing and not doing we have to answer to our citizens. If we aren't providing the information they are requesting then they will think we are hiding something from them. We can delete the private information for security reasons but

everything else should be an open book. Mr. Langenegger stated that what he is asking for in the reports is the information from the participation agreements that have already been approved so he isn't asking for anything more than what's been approved. He believes the State is leaning for more transparency as far as wages that are shown in the contract. He stated that he is willing to speak to them and see what the standard is and learn what they are working on. He also stated that just because information is presented to the Commission doesn't make it a public record; the private information could be redacted if the public asked for it.

Commissioner Haymaker stated that the City Manager is asking the Commission if they want him to pursue project participation agreements to their fullest, all Commission agreed. The project participation agreement needs to be followed and all reported information needs to be accurate. Mayor Lumpkin stated that the Commission is also under obligation because they also signed the agreements. Commissioner Gutierrez commented that there should also be documents to support the information reported.

### **Discussion regarding Nuisance Ordinance**

Mayor Lumpkin stated that he has had people approach him about the letters that were sent out and they have said that the letter is more threatening than necessary and he just wanted to make the Commission aware. He stated that there are properties around town that are dangerous and need to be cleaned up which is where this ordinance needs to be enforced. As an individual he asks that we concentrate on the really bad properties first and that a letter of explanation be sent out. The City needs to prioritize the properties starting with the more damaged. If a property is being maintained let it be if possible and if it is an empty building there still needs to be a license.

Mr. Langenegger stated that he agrees that we need to enforce against the really bad offenders. There have been changes to the ordinance such as revisiting the definition of a vacant building. Currently a vacant building is a business that doesn't have a business license or have a resident. The hesitancy as far as picking out the buildings that are damaged and falling down versus the businesses that are vacant but well maintained is the person that has a damaged building can say another building matches the definition as well but nothing is being done. There is an issue when it comes to making a definition for a vacant building that includes both the bad and the not so bad buildings. The definition that was used was from other municipalities. He stated that he is working with Mr. Knudson with coming up with a definition because they need to draw a line somewhere, regardless with where the line is there will be someone that is unhappy but as the City we have to draw that line. He stated that he thinks the definition of a vacant building could use some work because after the letters were sent out and after visiting with several citizens he can see some that fall into the definition of a vacant building but wouldn't really be considered vacant. We are enforcing certain areas that are worse but we aren't breaking them down on scale of how bad the properties are, but we are breaking it down as a zone. When we put this ordinance in place it was for commercial, industrials and properties, we are starting with Main Street, First Street and the Boulevard because those are the high traffic areas later we will move to commercial properties. It is unrealistic to take on the whole city at once so we have to break it down by location, but we wouldn't be able to break it down by how bad your property is, it either is or isn't a vacant building.

Mayor Pro Tem Litchfield stated that it makes sense to work on the definition itself. Commissioner Mihm stated that if someone has the utilities on, is insured and is utilizing the building for their own use he doesn't believe that should be considered a vacant building if it is maintained, has utilities and

is insured. We need to move on from those properties and focus on large buildings on the Boulevard because that is the biggest problem. Commissioner Gutierrez commented that most of the vacant buildings don't have utilities so if you are utilizing the facility and you're paying for utilities then it's not a vacant building. Mr. Langenegger stated that Mr. Knudson sent other definitions and they take in consideration if they have full utilities so there are other considerations to look at to try to get a manageable definition. Regardless of the choice there will still be upset people. He stated that the initial notice that went out was just a notice and outlined the ordinance, he intended for a letter to go out but it didn't. A letter has been sent out since to everyone who received the initial letter explaining what the notice meant. The new letter stated that we are implementing a new ordinance and the code enforcement officers identified what looked like vacant buildings, the notice doesn't necessarily mean their building is vacant. If citizens received the notice and they don't feel the buildings fall under that classification they can contact him and they can address it. He stated that several people over the past few weeks have contacted him and he has looked at several properties. Currently there is a list of one hundred buildings and they have taken seven off of the list because the owners have contacted him and explained that they either have a license or don't meet the definition. If we amend the definition others would come off the list as well.

Commissioner Gutierrez stated that maybe the code enforcement officers after identifying a building should check if they have a license before they send out a letter and upset anyone, it is more work but it would save time. Mr. Langenegger stated that the letters that were sent didn't necessarily have signs on them and weren't identifiable places of business. He agrees that it could have been handled better. Commissioner Gutierrez stated that going forward maybe that could be an option.

Mr. Langenegger stated that when the Nuisance Ordinance was put together we said we would work with the community; it would not be enforced heavily until the beginning of the year to give people plenty of notice and that is what is happening. In doing this we are finding issues because it is a new ordinance, we are finding concerns we will work with it and move on from there. The one thing we don't want to happen is we don't want to get frustrated with this and let it go. Anything that we implement will have to grow and we have to work out the kinks.

Mayor Lumpkin stated that whenever someone is cited there should be a description of what is wrong and asked for more flexibility.

### **Discussion regarding Garage Sale Ordinance**

Mayor Pro Tem Litchfield asked why this was even up for discussion. Mr. Langenegger stated that some citizens have come in and said that their neighbors have constant garage sales, they have one every weekend, there is traffic on their street and people parking in front of their houses every weekend which creates congestion in residential neighborhoods. They are basically operating a business without a business license. There are several sales where the operators go and buy clearance items from the stores and resale them making them a business not a garage sale. He stated that most municipalities have garage sale ordinances, if worded correctly they aren't unreasonable. We aren't taking away the right to have a garage sale, just limiting them to two to four a year, limiting them to certain days and eliminating the chances of people purchasing clearance items and selling them. This will also allow them to put up a certain amount of signs and requiring them to take them down because that is also an issue. He stated he definitely doesn't want to take away anyone's fun, he personally likes to go to garage sales but there are people that are taking advantage. They are basically operating a business and currently we can't stop them because there is no ordinance in place.

Mayor Lumpkin suggested that the City go talk to the individuals operating these garage sales that are a problem and inform them that they are basically operating a business without a license and this has become a nuisance to the neighbors and inform them we are going to have an ordinance. Mayor Pro Tem Litchfield stated that we need to be careful with how we approach this issue because if we say they're a nuisance we could cause problems. Commissioner Mihm suggested putting it on the back of the water bills to get the word out. Mr. Langenegger stated that he could speak about it on the radio.

Mayor Lumpkin stated that if the Commission puts new laws into effect there would be some disgruntle people. Commissioner Haymaker commented that the weather will give us more time to work on something because there won't be very many garage sales in the snow. He stated that he agrees with two to four a year but he has a concern with the wording. Mr. Langenegger stated they also need to look at whether or not they will require a permit and how do we keep track of how many an individual has a year. Commissioner Gutierrez commented that she thinks requiring a permit is a good idea because there would be a record. Mayor Pro Tem Litchfield stated that the permit should be free of charge but just necessary to keep a record.

Submitted by:

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Angelica M. Gray  
City Clerk