

Minutes of the Work Session of the Gallup City Council, City of Gallup, New Mexico, held in the Council Chambers at City Hall, 110 West Aztec, at 6:00 P.M. on Tuesday, August 9, 2011.

The meeting was called to order by Mayor Jackie McKinney.

At such meeting, the following were present, constituting a quorum:

Mayor:	Jackie McKinney
Councilors:	Mike Enfield Cecil Garcia Allan Landavazo E. Bryan Wall
Also present:	Dan Dible, City Manager R. David Pederson, City Attorney

The following items were presented to the Mayor and Councilors for discussion only:

1. Utility Shut-offs and Substandard Living Conditions – Clyde “C.B.” Strain, Community Planner

Mr. Strain said the City currently terminates utility services to residential customers for the non-payment of utility bills. The 2009 International Residential Code and 2009 International Property Maintenance Code requires all dwellings to have operating utilities in order to occupy the structure; therefore, residents are required to vacate their homes utility services are disconnected. He cited examples where disconnected residents created hazardous and substandard living conditions for themselves as well as surrounding neighbors. The examples include: residents cooking inside homes with outdoor grills, jumping electric meter boxes to obtain service, running electrical extension cords and water hoses from neighboring homes, connecting electrical extension cords to automotive batteries for power, usage of buckets as toilet facilities and dumping the waste from the buckets into the garbage containers. Most situations involve families with young children or elderly residents that do not have access to alternative housing facilities. Although the City has the aforementioned Codes in place, the City does not have a current policy or procedures in place to evict residents from their homes when services are terminated. He asked Mayor and Councilors for direction on how to address the problem.

Councilor Enfield asked if the utility disconnections were occurring primarily at dwellings owned by the customer or at dwellings that were being rented. Mr. Strain said the disconnections were occurring under both scenarios and the unsafe and substandard living conditions are sometimes discovered when City staff evicts tenants from homes when utility services are disconnected.

MINUTES

City Council Work Session – 8/9/2011

Page 2

Councilor Wall asked if City staff checked with how other cities handle similar problems. Mr. Strain said the City of Albuquerque has a program in place where evicted residents are issued vouchers to stay at local hotels. Mr. Strain said the City of Gallup does not have the funding capacity to maintain a program similar to the City of Albuquerque. Councilor Wall asked if the City solicits donations in utility bills that could be used to assist families with hardships. Mr. Strain responded no. Councilor Wall said the City could initiate a program where it could use the donations to help residents that have difficulties paying their bills. Mr. Dible said some cities have a voluntary option on their utility bills for customers to donate funds, along with their utility payment, that is deposited into a trust and agency fund operated by the City. The trust and agency fund could also be funded through the City's appropriation process. The City would be able to administer the fund by a committee consisting of individuals with a background in welfare and human services. Mr. Dible said the City may have potential difficulty in the event the problem outweighs the resources of the fund. Mayor McKinney asked if the fund would be used to offset the cost for preventing the disconnection of utility services for residents. Mr. Dible said a solution to the problem requires some type of funding as City would be able to create the criteria to determine eligibility for residents to receive a subsidy.

Councilor Enfield asked how many homes are affected by the problem. Mr. Strain said there are currently five homes that are facing disconnection with additional homes forthcoming. Mr. Pederson said he has experienced problems with complaints from neighbors and outside agencies reporting unsafe and substandard living conditions at specified locations. Mr. Pederson said the problem has escalated with the recent increase in foreclosures. Mortgage holders from out of state do not have local personnel to actively enforce foreclosure proceedings which lead to people illegally occupying their foreclosed homes for months at a time. He believes the problem will become worse and a voucher system, as used in larger cities, could be used to relocate residents from hazardous and/or substandard living conditions to a motel or some type of transitional housing on a temporary basis. Councilor Enfield agreed with Councilor Wall and suggested checking with other cities in the state to see how they handle similar problems.

Councilor Garcia asked if there were any existing procedures once the resident has been given notice to vacate the premises. Mr. Strain said City staff will issue a written notice to the occupants to vacate the premises within 14 days and if the occupants do not comply, the occupants are issued a second notice to vacate the premises within 7 days. If the occupants do not comply after the second notice, a complaint is filed in Municipal Court. Since there are serious substandard and hazardous living conditions that exist, Mr. Strain said the problem requires immediate attention by the City.

MINUTES

City Council Work Session – 8/9/2011

Page 3

Councilor Wall said when people are evicted from their homes in Arizona, the local sheriff would enforce the eviction proceedings within two or three days. Councilor Wall said the City should not wait for an extended period of time to evict the occupants, especially if hazardous conditions exist where the occupants could harm themselves by continuing to occupy the premises.

Councilor Garcia asked if the City would be liable if a person dies while occupying a substandard dwelling; even if the death occurs during the notice proceedings. Mr. Pederson said the City could always be thrown into a lawsuit as the current enforcement proceedings have called for voluntary evictions. Mr. Pederson said it would require due process in District Court to obtain a court order to enforce an eviction notice.

Mr. Dible said the nature of the problem cannot easily be resolved in a staff meeting and wanted to bring awareness of the problem to the Mayor and Councilors and to the public through the local media. By discussing the matter in a public forum, a solid solution to the problem can be reached; perhaps by having a local church group or the Meals on Wheels Program expand their services, if the City is able to implement a voucher program.

Mayor McKinney said the City needs to be as sympathetic as it can be; however, the City needs to have firm eviction procedures in place. He said the City is not helping people by allowing them to continue to live in hazardous and substandard conditions. He directed the City Manager and City Attorney to see how other communities deal with similar problems.

Councilor Landavazo recommended contacting State Senator George Munoz and State Representative Patty Lundstrom to see if state funds or funds from the Governor's slush fund are available to initiate a program that could be combined with voluntary donations submitted by utility customers. Councilor Landavazo also recommended establishing a partnership with the Southwest Indian Foundation to create a voucher program or a program to assist customers with their utility bills.

Mayor McKinney said the City cannot procrastinate in addressing the problem as City staff needs to enforce the law and to be able to evict residents if the dwellings are unsafe and substandard. Mr. Pederson said he is more concerned about the City's liability when it comes to endangering the lives of neighbors or endangering neighboring properties due to properties with hazardous or substandard living conditions. Mr. Pederson said the City has an obligation to enforce its laws to protect the lives and properties of all of its citizens. Mayor McKinney said if City staff is ready to serve eviction notices based on unsafe or substandard living conditions, then the City needs

MINUTES

City Council Work Session – 8/9/2011

Page 4

to find a solution to the problem as soon as possible. Mr. Dible said staff will have a recommendation to present to the Mayor and Councilors at the next Regular Meeting.

2. Enforcement of Illegal Parking in Residential Areas – R. David Pederson, City Attorney

Mr. Pederson presented an overview of the existing provisions from the Land Development Standards of the Municipal Code concerning general parking. Violation of the Ordinance is a petty misdemeanor and will generally result in a citation being issued through Municipal Court. According to the City Code, it is illegal to park vehicles on sidewalks and to park vehicles in the front yards of residences other than the driveway. He said the Mayor and Councilors need to determine the extent of enforcing the current Code as well as the amount of resources to be used in enforcing the Code. Although the City's code enforcement officers are able to issue citations for violations of the Ordinance, it will be more effective to have police officers issue citations since people will be more likely to comply with the citation. If it is determined by the Council to have police officers issue citations for every violation of the Ordinance, it will burden Municipal Court staff and it will take police officers off the street from other duties.

Mayor McKinney asked if code enforcement officers could issue warnings for violations of the Ordinance. He said the City may receive 75% compliance from violators. Mr. Pederson said similar practices have been used in the past. For example, during a previous clean-up campaign, the City issued warnings to residents for excessive weeds and trash on their properties. The process committed City staff to follow-up on residents not responding to the warning notices. If the Mayor and Councilors prefer to increase the enforcement of illegal parking, Mr. Pederson recommended the issuance of warnings to all violators in town, in an impartial manner. If there is a lack of compliance from the offenders once the warnings have been issued, then it will require the issuance of citations for violations of the Code.

Councilor Enfield said there is a situation in his district where residents poured concrete between the sidewalk and the street and have parked their vehicles on the concrete areas in a manner where the vehicles does not block the sidewalks and the streets. All of the specified residents were issued citations for parking off the street on the concrete areas. He said he received a letter from Deputy Police Chief John Allen stating that if all of the vehicles parked in the street on Country Club Drive, the vehicles would cause hazardous situations. He said the citations that were issued were a waste of time since the residents parked their vehicles in a safe manner as they always have during the past 30 years. He asked Mr. Strain why the affected residents were cited. Councilor Garcia said he was aware of the area Councilor Enfield was referring to and said there

MINUTES

City Council Work Session – 8/9/2011

Page 5

is only one resident that is not blocking the sidewalk as the other residents are blocking the sidewalk with their vehicles. Councilor Enfield disagreed and said the residents were parking their vehicles in their driveway. Councilor Garcia disagreed with Councilor Enfield and said when he was campaigning for office he received many complaints concerning illegal parking which affects the property values of the homes in his district. Councilor Garcia said he received a citation for illegal parking and had to move his vehicle. Councilor Garcia also said if the City is not going to enforce the current Ordinance, he recommended removing the Ordinance from the Municipal Code.

Councilor Wall thanked the Gallup Herald for publishing the pictures of the residents that were found to be in violation of the Ordinance. He said all of the members of the Council campaigned for a better quality of life and to beautify the city. The Ordinance provides measures that will support the values of properties in the community and with the high number of residents parking their vehicles in the street in his district drivers exercise common sense to let each other through when driving down the street. He is against people partially parking their vehicles on the sidewalk since pedestrians and people with wheelchairs cannot easily pass by said vehicles. If people receive citations for violations of the Code, he believes people will not go to court to address the citations and will rather remit the fines to the court by mail. He recommends enforcement of the Ordinance to beautify the community and enhance the quality of life of all residents.

Mayor McKinney said he has a small house with a small lot and owns more than one vehicle. To keep his vehicles off the street, he installed a circular driveway in front of his home. He received information earlier today about the installation of concrete pilasters in the middle of the street on Kit Carson Drive which creates a possible driving hazard where a vehicle has continuously parked on the curb leaving no accessibility for cars to pass through. Stan Henderson, Executive Director, Public Works Division, said the pilasters were installed due to the complaints about speeding traffic through the area. Previously, the City installed median strips at the location; however, the strips were constantly vandalized and were damaged by vehicular traffic as the City could not keep up with the repair costs to fix or replace the strips. This fiscal year the City replaced the median strips with median roll-over curb strips in an effort to slow down the traffic by having drivers navigate the median and the vehicles parked on the side of the street. Mayor McKinney asked how tall the median roll-over curb strips are. Mr. Henderson said the strips are about 6 to 8 inches tall.

Councilor Enfield said a problem still exists with the outdated Ordinance and it was his understanding that the City approved the installation of the concrete drive pads at the affected residences on Country Club Drive. He asked if there were any complaints from neighboring residents regarding how vehicles are parked on Country Club Drive. Mr. Strain responded no. Mr. Strain also said the existing Ordinance is useful and should

MINUTES

City Council Work Session – 8/9/2011

Page 6

not be repealed since the intent of the Ordinance is to prohibit the parking of junk, inoperable vehicles on blocks that become permanent fixtures in people's yards. Mr. Strain said residents are currently parking the vehicles that they use for work in their front yards as the vehicles are operable and are not permanent fixtures in their yards. Vehicles parked on the sidewalk obstructing pedestrian traffic are issued citations. The current Ordinance requires two off-street parking spaces per residence in residential districts as the older residential districts do not have the required number of parking spaces at each residence. The Ordinance also prohibits the parking of vehicles between the façade of the structure and the street frontage unless the vehicle is parked on a driveway. Mr. Strain said the code enforcement officers will issue citations for violations that are warranted; however, it does not make much sense to issue citations for vehicles that are used on a daily basis and are not permanent fixtures in people's yards.

Councilor Enfield said he believes the City's code enforcement focus should be on junk cars and vehicles parked on the sidewalks. He said it is impossible to construct a circular driveway for some homes due to the lay-out and age of each home.

Councilor Landavazo asked if an amendment could be made to the Ordinance to allow concrete driveways parallel to the street, but off the sidewalk. Mr. Strain said specific provisions can be included in the Ordinance; however, the manner in which the current Code has been interpreted and previously enforced has worked well.

Councilor Wall agreed with Councilor Landavazo to allow vehicles to be parked on concrete driveways along the front of the residential properties, away from the structures and in a manner where there is room for pedestrian traffic. He referred to the pictures in the Gallup Herald where vehicles were parked within the front yards of the residences in very close proximity to the front doors of the structures. He believes the current practice of allowing residents to park their vehicles close to their front doors ruins the neighborhoods and depreciates the values of residential properties. Mr. Strain said Councilor Wall's description of how vehicles parked in close proximity to the front doors of people's residences are violations of the Code, according to the literal interpretation of the Code. Mr. Strain said if the Mayor and Councilors prefer to aggressively enforce the literal interpretation of the Code, it would require the use of the majority of the resources of his department since the City only has two code enforcement officers. Since the City cannot selectively enforce the Ordinance, other Code violations such as public nuisances, dilapidated properties, excessive weeds and trash, will be lower prioritized in order to address the illegal parking issues. Councilor Wall said when he was working in Arizona, police officers would issue citations for illegal parking violations. Councilor Wall said people that are issued citations will most likely remit the fines by mail to the court. He also believes citations should also be

MINUTES

City Council Work Session – 8/9/2011

Page 7

issued for having police officers respond on a continuous basis to the same location for public nuisances. Mr. Strain said the City's parking requirements are not part of the Traffic Code but part of the City's Zoning Code which requires to be enforced by the City's code enforcement officers.

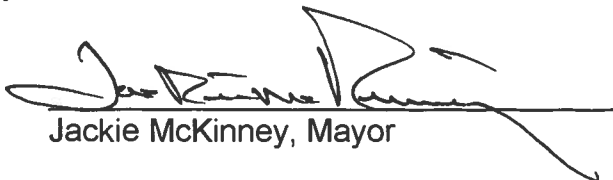
Mr. Dible said he does not want to waste a commissioned police officer's time to enforce the City's parking regulations. It costs the City a great deal of money to train its police officers and by having the officers enforce the City's parking regulations is not an efficient way to spend public funds.

Councilor Enfield said Mr. Strain has done a commendable job in the overall enforcement of the City's Codes. He recommended allowing Mr. Strain to use his best judgment in prioritizing the code enforcement activities of his department.

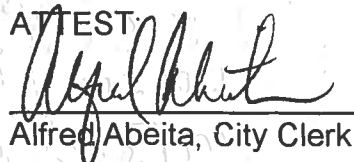
Councilor Garcia said there is a serious problem in his district and the City's Parking Ordinance needs to be enforced. He said his constituents are upset about property values going down due to the problem and the City will never be able to clean-up the community unless it enforces its ordinances.

Mayor McKinney instructed Mr. Strain to use his best judgment in prioritizing his department's enforcement activities. As additional funds may become available the Council will strive to provide additional resources to Mr. Strain's department. He recommended focusing the City's enforcement efforts to remove junk and inoperable vehicles and to issue warnings for parking violations. Mayor McKinney asked Mr. Strain to encourage residents to install concrete driveways in front of their homes and to uphold the City's Ordinances with discretion and common sense. Mr. Strain asked if he should continue enforcing the City's Ordinances on a compliant driven basis and to focus on higher priorities. Mayor McKinney and Councilor Enfield instructed Mr. Strain to handle the worse violations as a high priority without selective enforcement.

Due to time limitations, the Work Session adjourned.


Jackie McKinney, Mayor

ATTEST:


Alfred Abeita, City Clerk

Approved 8/23/2011