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3 The following are summary minutes for the meeting of the **City of Las Cruces –**  
4 **Housing Policy Review Committee** on April 20, 2022. The meeting was held via  
5 Zoom and in Room 2007A at City Hall, 700 N. Main Street, Las Cruces, New Mexico.

6  
7 **Members Present:**

- 8 Kasandra Gandara, City Council
- 9 Johana Bencomo, City Council
- 10 Yvonne Flores, City Council

11  
12 **Members Absent:**

- 13 Benjamin Beard, Las Cruces Home Builders Association
- 14 Sonja Unrau, NM Mortgage Finance Authority
- 15 Juan Olvera, Mesilla Valley Public Housing Authority

16  
17 **Others Present:**

- 18 Natalie Green, Housing Neighborhood Service Manager
- 19 Jan Lauterbach, Housing Development Coordinator
- 20 Kevin Wilson, Housing Development Coordinator
- 21 Tim Pitts, Deputy Director Building Development
- 22 Larry Nichols, Community Development Director
- 23 Vanessa King, Senior Office Manager
- 24 Jennifer Vega-Brown, City Attorney
- 25 Rene Romo
- 26 Sergio Ruiz, Policy Analyst
- 27 Gerard Anaya, Police
- 28 Paris Rubio
- 29 Nicole Martinez, Director, Mesilla Valley Community of Hope
- 30 Eric Enriquez, Assistant City Manager
- 31 Greg Shervanick:
- 32 Becky Baum, RC Creations, Transcription

- 33
- 34 **1. Call to Order:** Councilor Bencomo called the meeting to order at 2:01.
  - 35
  - 36 **2. Conflict of Interest:** No conflict of interest was proclaimed. Those present  
37 introduced themselves.
  - 38
  - 39 **3. Acceptance of the Agenda:** Motion to accept the agenda by Councilor  
40 Gandara, seconded by Councilor Flores. Motion passes.
  - 41
  - 42 **4. Minutes for Approval:**
    - 43 **a. Housing PRC Meeting of March 16, 2022:** Motion to accept the Minutes  
44 by Councilor Flores, seconded by Councilor Gandara. Motion passes.
- 45

1 **5. Action Items:**

2 **a. Uniform Housing Code and Nuisance Abatement Ordinance:** Jennifer  
3 Vega-Brown gave the presentation. It combines all existing building codes  
4 and building requirements into one ordinance as well as creates a  
5 mechanism to take action on substandard housing. A building that is in  
6 violation of this code is a nuisance per se. Within the code there is a  
7 provision that allows for people to be removed from a substandard  
8 dwelling unit. The landlord would be required to pay for rehousing the  
9 people or the City could potentially pay for that; this provision needs to be  
10 determined. Ms. Vega-Brown removed the Planning and Zoning  
11 Commission to be replaced by the City Council in the document;  
12 administrative action would take place at City Council. If there is an  
13 appeal it would go to District Court.

14  
15 People should have enough opportunities for due process; especially with  
16 people representing themselves. State statute NMSA 3-18-5 allows  
17 definition of public nuisance which is what this ordinance is. It typically  
18 works in conjunction with the Nuisance Abatement Ordinance. There  
19 were still questions on enforcement and how the process goes. The two  
20 ordinances work together. This type of nuisance is where state law allows  
21 the City to demolish a building pursuant to the home rule authority and the  
22 other type of nuisance which is similar to red light cameras. Nuisance  
23 Abatement Action is injunctive relief; not trying to take the property but  
24 rather be a remedial measure to fix it. It allows for the City to take action  
25 and place a lien on the property; still must follow the state law to place the  
26 lien and owner must have due process.

27  
28 There is a long list of the New Mexico criminal codes. The properties that  
29 action can be taken on must have a multitude of issues; tons of calls for  
30 service on one thing, etcetera. It is not an easy or short process; could  
31 take up to two years. The first step is identifying the building as a  
32 nuisance; building must be a structure that is ruined, damaged, and  
33 dilapidated or the premises is covered with ruins, rubbish, wreckage, or  
34 debris. There must be a lot of documentation on why it is a public  
35 nuisance; can't just be to a few people. This legal process is for the  
36 attorney. A program will need to be created meeting regularly with police,  
37 fire, and community development to discuss properties; only ones that can  
38 have action taken on them.

39  
40 Larry Nichols commented that a lot of the responsibility and enforcement  
41 on the City Manager or Council. In previous places he's worked there  
42 have been a Code Official who would work with all the various groups to  
43 process the ordinances. He believes that the International Property  
44 Maintenance Code enables the City to do things in a more effective and  
45 efficient way than what there is now. These two Ordinances work together  
46 to allow the City to take action of the state law with abatement. There was  
47 discussion on the applicability and scope of administration and  
48 enforcement, the duties and powers of the code official. Inspections, right

1 of entry, identification, notices, and orders could fit under the  
2 Ordinance. You cannot deprive someone of their property without due  
3 process. Councilor Bencomo stated there will be more time for comments  
4 prior to this going to City Council; she is interested in the comments from  
5 Ben Beard who is not there today.  
6

7 Councilor Bencomo asked once something is identified where it get  
8 triggers to the next legal level. It's not in the Ordinance but part of what is  
9 already happening; don't want it in the ordinance. Discussion on the NAT  
10 is an administrative level. Councilor Gandara commented that this is  
11 something they have wanted for years to help with making sure homes are  
12 habitable. She added that there are a lot of vacant properties that aren't  
13 up to code but nothing is being done. She would like to see a yearly fee of  
14 some sort to help with encouraging people to do something with the  
15 properties. The ordinance is robust and is the same for dilapidated  
16 buildings; certain houses fall under this ordinance.  
17

18 Property rights are the highest level of protection and liberty that  
19 individuals have. The government must have an extremely compelling  
20 case for taking someone's property; not permanently but to impose things  
21 to the property owner. Unless it's presenting a danger or otherwise  
22 violating another type of ordinance it is only a petty misdemeanor or  
23 citation, no injunctive relief in the Municipal Court. If a person wants to  
24 leave their house empty they have every right to do so. Some cities have  
25 required a house vacancy fee in order to track them; it is low level fees.  
26 Mr. Nichols stated that fees should be more for recovering costs of having  
27 police and fire respond to calls at those homes. Councilor Gandara  
28 commented on the issues with having vacant houses and asked what can  
29 be done, break-ins, fires, and etcetera.  
30

31 When Ms. Vega-Brown started at the City she stopped the process of NAT  
32 due to no due process written into the ordinance; it has been resolved.  
33 During COVID all Civil Action Suits were stopped as well but now action  
34 can be taken. Once the building has been identified as a nuisance then a  
35 building inspection must be done. The building is red tagged if  
36 appropriate or an inspectorial search order must be done; more like a  
37 search warrant from State Court to enter the property based on probable  
38 cause of dangerous structure. After those items they can invoke a  
39 certificate of occupancy if appropriate; requires proper notice. The next  
40 step is to determine who owns the building and who occupies the building;  
41 both need notice.  
42

43 Next a resolution would be drafted which must state the building is ruined,  
44 damaged, and dilapidated, a menace to the public health, comfort, peace,  
45 or safety, and requires the removal from the municipality. The resolution  
46 must include all photos, documentation, calls for service, citations, and  
47 etcetera. A deadline for removal must be stated. Then a request for title  
48 work will be made for ownership; an appraisal for the building must be

1 included within the resolution; if demolition is requested there must  
2 be contractor's affidavit to see the cost; ask for asbestos testing; request  
3 proper permits, especially for demolition; and place on the agenda for  
4 Council. After that, the water and gas must be disconnected for  
5 demolition if needed. The next step would provide the owner notice; serve  
6 a copy of the resolution to the occupant or agent in charge. If the owner is  
7 not on the premises then it must be posted on the building structure; it will  
8 also be published in the agenda.  
9

10 Once the resolution is passed, within 10 days of receipt of the copy of the  
11 resolution or posting the owner shall commence to removing the building  
12 or the owner needs to file a written objection with the clerk. If the  
13 objection is filed then the governing body must fix the date for the hearing  
14 at a regular City Council hearing. All evidence must be considered for and  
15 against the removal of the structure as well as determine if the resolution  
16 is going to be enforced or rescinded. After that process, the owner may  
17 appeal to District Court; need to file a petition in the District Court within 20  
18 days after the determination is made. Notice of the appeal must be given  
19 to City Council within five days. The District Court will hear the matter in a  
20 de novo hearing and enter the judgement. At that point the City would  
21 have to issue a civil complaint in the District Court; five count complaint.  
22

23 Count one would seek to have the property declared a public nuisance  
24 under state statute. Count two would seek to have the property declared  
25 a public nuisance under the City ordinance. Count three would seek to  
26 have the property declared in violation of City code or the Housing and  
27 Zoning Code. Count four would ask for injunctive relief to allow the City to  
28 enter the property and evict the tenants in order to secure the property; it  
29 is civil so the City will not take title or fines but ask for attorney fees if  
30 appropriate. If the owner fails to take the action then the resolution goes  
31 into effect; go to court asking for the judgements, the District Court would  
32 enter the judgment either way, etcetera. At that point the City can pay for  
33 the removal of the condemned building and then place a lien on it. There  
34 is a process of placing the lien under number 12. Depending on the  
35 situation, if people are asked to be moved by landlord/tenant situation the  
36 Uniform Housing Code could be used to allow rehousing.  
37

38 Any time something is filed in District Court there is a 30 day response  
39 period; there can be a default judgment if they don't answer with 30 days  
40 to answer that. The City also has 30 days to respond if they receive  
41 anything. If a resolution is passed and no one responds then action can  
42 be taken; usually people respond. While waiting for responses the City  
43 may abate; the building official comes in and can board a building up and  
44 red tag it. The injunctive relief from the court could be demolish or doing a  
45 few things within a certain amount of time; if the items are not done in the  
46 allotted time then the City can go back to court. The longest time Ms.  
47 Vega-Brown has seen with this process is roughly two years. Another

1 thing that extends the process is when they put out a notice and then are  
2 reliant on the property owner to give an answer as to what they will do.  
3

4 There was discussion on what can be done with homes that are  
5 uninhabitable but people decided to live in them anyway. They can get an  
6 inspectorial search order through Magistrate Court; that gives the building  
7 official the ability to go into the house and any structures they see they  
8 can condemn if needed. To receive the search order they must show that  
9 there is probably cause, all documentation and pictures, etcetera. Ms.  
10 Vega-Brown gave an explanation on when they are able to invoke the  
11 ordinance; the building must be a public nuisance and a danger to the  
12 community. If a person simply wants to board up the house or it's  
13 dilapidated doesn't mean it has to be removed. There was clarification on  
14 what the officers are able to do; COVID changed many things and shut  
15 down many things. Ms. Vega-Brown has two cases now that she is  
16 working on.  
17

18 Mr. Wilson asked if they've given thought to landlords who won't take care  
19 of things or retaliation when tenants ask for repair. The Uniform Housing  
20 Code does have a mechanism to cite the landlord every day for a violation  
21 specific in the code; they do have an opportunity to go to Municipal Court  
22 to fight the citation. If those citations stack up then the property becomes  
23 a nuisance and the City can implement the Ordinance. There was  
24 discussion on rentals on West Picacho with landlords who are being  
25 difficult; one evicted the tenant after being forced to fix a broken sewer  
26 line. The landlord at 1200 W Picacho split 10 apartments into 20  
27 efficiencies and ran his own gas, water, and electric. Both landlords were  
28 found guilty and were forced to pay a fine; both paid it immediately. They  
29 are also one of the few landlords accepting vouchers from homeless  
30 community. There is language in the Ordinance in regards to retaliation  
31 and moving people. The state law also has some landlord/tenant  
32 language.  
33

34 Mr. Nichols has stated that what they've seen is the landlord agrees to fix  
35 the issue, asks the tenants to leave while the repairs are being made, but  
36 then increase the rent of the tenants who may not be able to pay it. The  
37 City can't have any say in the contractual relationship; it would take state  
38 law. Councilor Gandara mentioned an issue in San Pedro rentals; not  
39 much space at all for many people, roughly 375 square feet. There was  
40 additional discussions on rentals and landlord issues. The Kilby has  
41 improvements to the exterior but there are still issues inside. There is  
42 exception to efficiency apartments and tiny homes would also present a  
43 different issue; need to be defined and added as an exception to space  
44 requirements. Mr. Nichols will work on language for tiny homes; efficiency  
45 apartments are in the language.  
46

47 Councilor Bencomo asked about page 24 and page 25 with the funds for  
48 relocation; need to discuss an appropriate number to put into the budget.  
49

1 She recommended extra staff if Ms. Vega-Brown needs it. There was  
2 question as to make that a question for Council work session or discuss it  
3 now. Ms. Vega-Brown answered the staff question; they are understaffed  
4 currently with two attorney positions open. The salary range would be  
5 from \$86,000 to \$110,000. They are having difficulty competing with  
6 public offices. It is unknown of what the volume would be. Once she  
7 trains the other attorneys to handle the cases the volume shouldn't be too  
8 much. The judge may require mediation with the owner; hopefully in those  
9 conversations a middle ground can be found and an agreement will be  
10 signed. The mediation would be informal; simply talking with the owner  
11 with the desire to get the property fixed without going to court.  
12

13 Councilor Gandara suggested hiring a mediator to do this for the City. Ms.  
14 Vega-Brown stated that that's what the City Council is for. When she  
15 meets with someone prior to filing any litigation she sits with them to  
16 discuss how they can come into compliance without filing a lawsuit. They  
17 are able to enter into an agreement and can use that in court if needed.  
18 City Council can give extra time for the individual to fix things as well. It is  
19 unknown how many people don't have an attorney during these cases;  
20 they should always have an attorney in civil rights and litigation. In  
21 Municipal Court a good number may not have an attorney but you can  
22 qualify for a public defender if you need one. The District Court one must  
23 fill out an application and then be assigned an attorney; Municipal Court  
24 may be similar. The civil side at the District Court they aren't entitled to an  
25 attorney. Ms. Vega-Brown stated that when she was in Albuquerque it  
26 was roughly 85% pro se.  
27

28 Councilor Gandara is unsure that people could afford attorneys and may  
29 feel unsure. There should be something in place to make sure it is  
30 equitable. There is legal aid in town. Councilor Bencomo stated that if  
31 one has committed to be a landlord then there are certain responsibilities  
32 and rights. If those responsibilities are not being met they have to figure it  
33 out. Councilor Flores added that people without an attorney tend to not  
34 know what their rights are. This is why there are multiple steps of due  
35 process. Attorneys have a legal responsibility to be fair and fairly  
36 represent. Ms. Vega-Brown is unable to give legal advice but can give the  
37 options. District judges give a lot of leeway to pro se individuals.  
38

39 There was discussion on funding and having language in the Ordinance;  
40 the relocation fund needs to be established with discussion on how much  
41 should be in there and how to keep the funding there. There was one  
42 woman who had to be relocated and it cost just at \$6,600 for 11 months of  
43 habitation. This is assuming the clients pay their own utilities; they cover  
44 the rent and a little moving assistance. They did have a special deal on  
45 the house; no way one could have gone out to the open market for what  
46 they're paying in rent. The current rent is astronomical. Natalie Green  
47 suggested asking for \$50,000 and then if more is needed it can be  
48 requested. Relocation is a last ditch effort and rare circumstances. Ms.

1 Green suggested dedicating \$250,000 to the program every year; legal,  
2 abatement, and relocation funds but staff would be kept separate. Staff is  
3 currently dealing with one right now of abatement cost and pricing out  
4 demolition which will help with cost ideas; discuss in a work session.  
5

6 Motion to accept the Minutes by Councilor Flores, seconded by Councilor  
7 Gandara. Motion passes.  
8

9 **6. Agency Spotlights - None:**

10  
11 **7. General Discussion - None:**  
12

13 **8. Future Items for Review:** The next meeting is May 18th and the topic will be  
14 Source of Income Discrimination. Albuquerque is considering theirs as well; city  
15 of Santa Fe is doing it as well. Ms. Green will send the information to the Board  
16 for review. There was a lot of pushback in Albuquerque so there is an extended  
17 public input piece added in; unsure it will be ready yet. Another potential topic is  
18 reviewing a community plan to address homelessness from Albuquerque; staff is  
19 planning on doing an allocation plan for home ARP planning to address  
20 homelessness but may be able to tie that to a community component. The Board  
21 will be able to look at it next month but a deeper discussion will need to take  
22 place another time. The City did a 10 year plan to end homelessness about 10  
23 years ago which was determined by the federal government but wasn't funded.  
24

25 Councilor Flores asked if there was anything on the statewide housing strategy  
26 review. MFA has been meeting with stakeholders on a statewide housing  
27 strategy; three from the Las Cruces area which are Ms. Green, Nicole Martinez,  
28 and Jeff Curry. There is an analysis, policies in different areas, and etcetera.  
29 The state as a whole is intended to have an affordable housing strategy. There  
30 are participation from home builders and League of Women Voters as well.  
31 Councilor Flores recommended to have the League of Women Voters participate;  
32 the state and Mortgage Finance Authority picks the participants. This has been  
33 going on for six months and Ms. Green can give an update to the Board.  
34

35 **9. Adjournment:** Motion to adjourn the meeting by Board Member Flores,  
36 seconded by Board Member Gandara. The meeting adjourned at approximately  
37 3:37 p.m.  
38  
39  
40  
41

42 \_\_\_\_\_  
43 Chairperson  
44  
45  
46

47 Approved: \_\_\_\_\_