

REGULAR COUNCIL SESSION
609 29th Street, Vienna, WV 26105
June 23, 2022
6:00 P.M.

INVOCATION AND PLEDGE OF ALLEGIANCE:

The Invocation was given by Rod Smith. The Pledge of Allegiance was led by Councilwoman Kim Williams.

CALL TO ORDER:

The Vienna City Council met in Regular Session on June 23, 2022. Mayor Rapp called the meeting to order at 6:02pm.

ROLL CALL:

Attendance was taken by Mayor Randy Rapp with the following Council members present: Kim Williams, Jim Leach, Tom Azinger (arrived during Executive Session), Roger Bibbee, Chris Mancuso, Recorder Melissa Elam, City Attorney Russell Skogstad, and Mayor Randy Rapp. Absent: None.

PUBLIC FORUM:

Chad Emrick (2806 10th Ave.): Spoke in favor of moving the kayak launch to 12th Street. He shared that Thomas Pritt, owner of the ramp and property adjacent to the 12th Street property, would like to partner with the city to enhance river access for the city.

Tamara Rhodes (4604 6th Ave.): She is concerned that the parcel at 12th Street that ACE has been leasing will be sold to them. She doesn't think the appraisal was a fair valuation.

Brenda Powell (1409 31st Street): Concerned about zoning for residential homes and the treatment centers. She is also concerned about street congestion caused by an increased number of recovery residents. She would like to know how paying for the pool and sewer and water improvements will impact citizens financially.

Jack Mathers (280 Kimberjack Trail): Thanked Council for their support for the Freedom Festival.

Mike Barnes (1103 14th Street): Frustrated with vacant homes in his neighborhood (1303 and 1305 11th Ave.). Believes they are a safety issue.

REPORT OF THE MINUTES:

The minutes of the Regular Council Session scheduled on 6/9/2022 have been printed, posted, and circulated. Approved as posted.

Mayor Rapp asked for an Executive Session to discuss a legal matter. Motion to go into Executive Session made by Councilman Jim Leach. Motion seconded by Councilman Roger Bibbee. Vote: 6-0.

Dismissed at 6:25pm.

Regular Session of Council resumed at 6:57pm.

UNFINISHED BUSINESS:

1. ORDINANCE – SECOND READING: Regulating Group Residential Homes

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIENNA that ARTICLE 1326 of the Codified Ordinances of the City is hereby enacted enacting regulations for Group Residential Homes:

1326. GROUP RESIDENTIAL HOMES

1326.01 Definition: For the purpose of this Article, "Group Residential Home" shall mean a building owned, leased or occupied by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence.

1326.02 Purpose: The purpose of these regulations is to permit the establishment and occupation of Group Residential Homes as authorized by the provisions of West Virginia Code Chapter 27, Article 17, as amended, and in compliance with the Fair Housing Act, while preserving the residential character of neighborhoods in which such Group Residential Homes may be located and prevent a concentration of such facilities in any particular area.

1326.03 Registration Required: A completed registration form shall be submitted to the Office of the Finance Director on a form established for such purpose. Registration shall become effective upon issuance of a Certificate of Occupancy for the Group residential Home and shall terminate when the Group residential Home use ceases. No registration shall be accepted for a Group Residential Home that does not comply with the requirements of this Article. Any information upon such registration forms which is changed or amended shall be promptly provided to the City.

1326.04 Zoning Confirmation. Prior to registration, a request for zoning confirmation shall be submitted to the appropriate office of the Development Director to confirm that the proposed location of the group home is permitted under this section.

1326.05 Certificate of Occupancy. A Group Residential Home may not be occupied by tenants until a Certificate of Occupancy has been provided by the Director of Finance and the Code Enforcement Division reflecting compliance with all the provisions of this article.

1326.06 Standards. All Group residential Homes shall be located, developed, operated and occupied in compliance with the following standards:

- 1) *Separation.* The minimum separation between Group Residential Homes shall be no less than 1,500 feet, as measured from the closest exterior property lines of the real property upon which the Group Residential Homes are located.
- 2) *Occupancy.* The number of residents, excluding staff, shall not exceed 12, or 1 person per 200 square feet of interior living space, whichever is less.
- 3) *Exterior Appearance.* There shall be no sign or other exterior indication of a Group residential Home visible from the street.
- 4) *Compliance with all Applicable Building and Fire Safety Regulations.* A group residential Home must meet all applicable building, fire and/or other life safety codes in effect.
- 5) *Licensing.* Group residential Homes shall comply with all applicable licensing requirements of the State of West Virginia.
- 6) *Parking.* Any parking for Group residential Homes shall be in compliance with all off street parking requirements as set forth in Article 1363 of the Codified Ordinances of the City.
- 7) *Tenancy.* No Group residential Home shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
- 8) *Exclusive Use.* All administrative activities including staffing, counseling and other visitations shall serve only the residents of the Group residential Home.
- 9) *Reporting of Deaths, Injuries and/or Emergency Response.* Every Group Residential Home shall report to the Police Department of the City of Vienna the occurrence of any deaths or serious injuries to any tenant of the Group Residential Homes or other persons upon the premises, and any police, fire or other emergency response upon or to the premises, accompanied by a concise description of any such occurrences.
- 10) *Responsible Party.* All applications for registration of a Group Residential Home shall identify the name, business address, business phone number, and email address, of the person or entity primarily responsible for the operation and occupancy of a Group Residential Home and compliance with the provisions of this Article.

1326.07 Additional requirements of State Law. Notwithstanding any of the provisions of this Article, if the State of West Virginia adopts laws or rules for the regulation of Group Residential Homes, then such State law or regulations shall apply in addition to the standards herein set forth.

1326.08 Request for Accommodation. If an owner of a Group Residential Home believes any requirement of this Article prevents the lawful establishment of a Group Residential Home, the owner shall submit to the City a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the City to make a determination whether an accommodation should be made pursuant to the requirements of the Fair Housing Act, Americans with Disabilities Act (ADA) or any other applicable federal or state law; and if so, the nature and extent of the accommodation taking into consideration the requirements of the law and the public health, safety and welfare. The City shall issue an administrative decision upon any such request within 30 days of the date thereof, and the decision shall be made public. Any such owner of a prospective Group Residential Home or any resident of the city who can establish a direct impact from any such decision shall have the right to appeal the administrative decision to the Board of Zoning Appeals of the City of Vienna, which shall conduct a public hearing as provided by law and issue a ruling affirming or denying the appeal. Any decision of the Board of Zoning Appeals may be appealed to the Circuit Court of Wood County by the filing of a Petition for Writ of Certiorari within 30 calendar days of the issuance of the final decision.

Mayor Rapp asked to amend 1326.04 to remove “Development Director” and replace it with “Code Enforcement Officer”. Councilman Jim Leach moved to approve the amendment. Motion seconded by Recorder Melissa Elam.

Roll call vote taken by Mayor Randy Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Jim Leach, Councilman Roger Bibbee, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 7-0.

Councilman Tom Azinger moved to approve the Ordinance – Second Reading Regulating Group Residential Homes. Motion seconded by Councilman Roger Bibbee.

Councilwoman Kim Williams believes the ordinance as it reads is discriminatory. Concerned that disabled veterans may be subject to this regulation.

Attorney Russ Skogstad shared how other municipalities have dealt with this issue. Licensing and registration helps regulate the Group Residential Homes and is compliant with federal law. Each home has to be examined on a case by case basis. Cities have to also protect people who reside in these homes to make sure they are not being taken advantage of.

Councilman Azinger called for the question. It did not receive a second.

Councilman Chris Mancuso wants to make sure Vienna is a welcoming community. Concerned that those who are recovering are being perceived as bringing neighborhoods down. Thinks the problem should be dealt with on the state level.

Mayor Randy Rapp expressed understanding of the opinions given. He is most concerned with bad landlords and maintaining and protecting neighborhoods.

Councilman Jim Leach believes we all have the same concern. Stated our job is not to change state and federal law. Our concern and responsibility is for our community and citizens.

Roll call vote taken by Mayor Randy Rapp. Councilman Tom Azinger, Councilman Jim Leach, Councilman Roger Bibbee, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Councilwoman Kim Williams and Councilman Chris Mancuso voting “no”. Vote: 5-2.

2. ORDINANCE – SECOND READING: Amending Article 1371 of the Vienna Municipal Code 1371 and Regulating the Location and Placement of Residential Substance Abuse Treatment Facilities

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VIENNA THAT:

1371.03 RESIDENTIAL SUBSTANCE ABUSE TREATMENT FACILITIES

(82) A “residential substance abuse treatment facility” means a live in/inpatient facility or center providing substance abuse therapy/treatment to individuals. It does not include group residential homes as defined in WV Code 27-17-2 or a residential care community as defined in WV Code 16-5N-2(k).

(83) A “substance” means both alcohol and controlled substances/drugs

a. No residential substance abuse treatment facility shall be located within any of the following areas:

1. Within 250 feet, as so measured from each property line, of a residential district;
2. Within 500 feet, as so measured, of a public or parochial school;
3. Within 100 feet, as so measured, of any existing residential substance abuse treatment facility.

Councilman Tom Azinger moved to approve the Ordinance – Second Reading Amending Article 1371 of the Vienna Municipal Code 1371 and Regulating the Location and Placement of Residential Substance Abuse Treatment Facilities. Motion seconded by Councilman Jim Leach.

No further discussion.

Roll call vote taken by Mayor Randy Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Jim Leach, Councilman Roger Bibbee, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 7-0

NEW BUSINESS:

- 1. RESOLUTION: Authorizing Participation In The Parkersburg/Wood County Home Consortium For The Period Of July 1, 2022, To June 30, 2023 And Approving The FY 2022 Annual Action Plan, And**

Authorizing The Filing Of The Plans With The U.S. Department Of Housing And Urban Development (HUD)

Whereas, TITLE II of the National Affordable Housing Action of 1990 provides for the creation of the HOME Investment Partnership Program, hereinafter referred to as "HOME" and

Whereas, the HOME regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) under 24 CFR Part 92 authorizes units of general local government to enter into Housing Consortium Cooperation Agreements; and

Whereas, there is still a need throughout Wood County, West Virginia to provide affordable housing for low- and moderate- income residents; and

Whereas, the City of Parkersburg's Development Department has prepared a FY 2022 Annual Action Plan, which proposes how the entitlement grant funds will be expended to address the housing needs identified in the Five-Year Consolidated Plan; and

Whereas, a draft of the FY 2022 Annual Action Plan, was on public display from May 27, 2022 through June 27, 2022 and a series of public meetings and hearings were held on said plans and comments of citizens were taken into consideration in the preparation of the final documents.

Whereas, the Wood County Commission, the City of Parkersburg, the City of Vienna, and City of Williamstown, West Virginia have formed a Consortium which has been designated as a Participating Jurisdiction under the HOME Program, thereby entitling the Consortium to an annual funding; and

Whereas, the U.S. Department of Housing and Urban Development has awarded the Parkersburg/Wood County HOME Consortium a HOME grant in the amount of \$383,735.00 for Fiscal Year 2022; and

Whereas, the City of Parkersburg recognizes the need to obtain funding for affordable housing and has identified the HOME Program as a source of funds to meet this need.

Now, Therefore, Be It Resolved by the City of Vienna that:

1. The City of Vienna will continue to cooperate with the City of Parkersburg in a Consortium for participation in the HOME Program.

2. A copy of this resolution is to be submitted in the request to HUD to approve funding of the Parkersburg/Wood County HOME Consortium for the above fiscal year 2022 HOME Investment Partnership Program.

Andrew Thomas presented.

Councilwoman Williams asked if to participate with HUD if we have to be in compliance with the Fair Housing Act. Mr. Thomas answered yes.

Councilman Tom Azinger moved to approve the Resolution Authorizing Participation In The Parkersburg/Wood County Home Consortium For The Period Of July 1, 2022, To June 30, 2023 And Approving The FY 2022 Annual Action Plan, And Authorizing The Filing Of The Plans With The U.S. Department Of Housing And Urban Development (HUD). Motion seconded by Councilman Roger Bibbee.

No further discussion.

Roll call vote taken by Mayor Randy Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Jim Leach, Councilman Roger Bibbee, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting "yes". Vote: 7-0

2. RESOLUTION: CDBG Application

Toni Tiano presented. The city did 19 housing projects this past year.

Recorder Melissa Elam moved to approve the Resolution Authorizing Participation In The Parkersburg/Wood County Home Consortium For The Period Of July 1, 2022, To June 30, 2023 And Approving The FY 2022 Annual Action Plan, And Authorizing The Filing Of The Plans With The U.S. Department Of Housing And Urban Development (HUD). Motion seconded by Councilman Roger Bibbee.

Councilwoman Williams asked Ms. Tiano if homeowners had to have homeowner's insurance. Answer was no.

Roll call vote taken by Mayor Randy Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Jim Leach, Councilman Roger Bibbee, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting "yes". Vote: 7-0

3. ORDINANCE – FIRST READING: Amending And Supplementing The Ordinances Of The City Of Vienna Building Standards And Codes Codified As Section 1721, “State Building Code.” This Ordinance Incorporates The Changes To The West Virginia State Building Codes Promulgated By The West Virginia State Fire Commission And Established By Legislative Rule As Set Out In Title 87, Series 4, (87-04) Of The West Virginia Code Of State Rules

Councilman Chris Mancuso moved to approve the Ordinance – First Reading Amending And Supplementing The Ordinances Of The City Of Vienna Building Standards And Codes Codified As Section 1721, “State Building Code.” This Ordinance Incorporates The Changes To The West Virginia State Building Codes Promulgated By The West Virginia State Fire Commission And Established By Legislative Rule As Set Out In Title 87, Series 4, (87-04) Of The West Virginia Code Of State Rules. Motion seconded by Councilman Roger Bibbee.

No discussion.

Roll call vote taken by Mayor Randy Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Jim Leach, Councilman Roger Bibbee, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 7-0

4. RESOLUTION: OMNI Financial Proposal

Recorder Elam explained that this agenda item was included just in case the proposal had been received in time for the meeting but it hasn’t been so there is no action to take yet.

Recorder Elam asked for a motion to table the Resolution.

Councilman Jim Leach moved to table the Resolution. Motion seconded by Councilman Roger Bibbee.

No further discussion.

Roll call vote taken by Mayor Randy Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Jim Leach, Councilman Roger Bibbee, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 7-0

5. UPDATE: Jackson Pool

Recorder Melissa Elam stated that Tim Roberts and Steve Black are on the Design Team with her and each of them will be getting insights and feedback from others. She spoke with OMNI and they are working on a proposal for Task Order #1. Once we know their rate, council will make a decision on hiring.

6. UPDATE: 12th Street Property Plans

Attorney Skogstad said he is in the process of addressing the issue.

COUNCIL COMMENTS:

Councilman Jim Leach is excited for the Freedom Festival.

Councilman Roger Bibbee said Ice Cream Social went well.

Mayor Rapp shared a story showing how great our employees are. Duane Fluty came out and inspected a 93 year old lady’s electricity service entrance during off hours so that the power company could turn the power back on.

Meeting adjourned at 7:50pm.

Melissa Elam, Recorder

Randall C. Rapp, Mayor

APPROVED: _____
 Initials Date