



MINUTES
OF THE SPECIAL CALLED MEETING
Of the
CITY COUNCIL
OF THE VILLAGE OF VOLENTE, TEXAS
THURSDAY, OCTOBER 16, 2014 at 6:00 P.M.
City Hall, 16100 Wharf Cove, Volente, Texas.

1. Open Special Called Meeting.

Mayor Graber calls the Meeting to order at 6:02 PM

2. Call Roll.

Roll called by Barbara Wilson, City Administrator. Council Members Babs Yarbrough, Jan Yenawine, Judy Graci, Ken Beck, Mayor Pro Tem Mark Scott, and Mayor Frederick Graber all present.

3. Discussion and Possible Action on Ordinance of the Village of Volente, Texas amending the Village's Zoning Ordinance (Ordinance No. 2004-O-32), codified at Article 30, Sections 30.105 and 30.133 of the Village's Zoning Regulations; providing the definitions of Short Term Rental; defining, regulating and restricting the use of Short Term Rental usage in Zoning categories; and providing for legislative findings, purpose, penalty provisions, severability, effective date, and public notice and meeting requirements.

a. Staff Presentation

Mayor Graber discusses the history of numerous STR meetings and public input since April and culminating in this ordinance's decisions.

Barbara Wilson, City Administrator, goes over the proposed ordinance.

Council Member Judy Graci points out that the notice a property owner must give to neighbors (line 88 of proposed STR Ordinance) does not include the verbiage of what the notice would say.

Council Member Babs Yarbrough says that residents receiving a notice that a STR will be next door may have an immediate negative effect, causing more harm than good.

Council Member Judy Graci, the benefit of the notice is to provide neighboring residents with the name of an authorized agent, owner of unit, telephone numbers for 24 hour contact, a number to call and report violations, and the max number occupants and number of vehicles allowed, all of which will give the neighbor the information they need if an issue arises.

Council Member Babs Yarbrough states that every STR owner has a list of all other owners. If the owner next door cannot be reached, then the other owners would call. STR owners have agreed to call and scrutinize each other as detailed in their Code of Conduct. This notice to neighbors is not going to provide immediate relief or end a party.

Mayor Graber reminds Council that whether or not to adopt an ordinance will be a discussion for the Council meeting. Today is focused entirely on the proposed ordinance language.

Council Member Jan Yenawine would like to add to line 31 "health and safety issues for both neighboring residents and rental clientele".

Mayor Pro Tem Mark Scott agrees.

Barbara Wilson, City Administrator, asks Council if the notice would be required to be sent out to residents within 200 feet or 500 feet? (line 88)

Council Member Jan Yenawine agrees with 500 feet, adding that limiting the notification to 200 feet would not get the notice out to enough residents around the STR.

Mayor Graber agrees. 500 feet allows all potentially impacted residents to receive a notice.

Council Member Judy Graci is also in agreement with 500 feet.

Council Member Ken Beck states that the meeting with STR owners resulted in not only a Code of Conduct but also multiple names and numbers of other Operators relatively close to each rental. States that he is in favor of the written notification because it supports open communication between Operators and residents.

Council Member Jan Yenawine states that the Operators' agreement cannot be enforced and our Ordinance needs to be kept simple. A telephone number for contacting rental owner needs to be available to residents. When an operator applies for a permit, then a contact number for themselves or a responsible party needs to accompany the application.

Council Member Judy Graci details what the notification would include.

Name of an authorized agent, a telephone number for 24 hour availability, Enforcement telephone number at which members of public may report violations,

and the maximum number of overnight guests permitted to stay in the unit separate from the maximum number allowed during the day.

Council Member Jan Yenawine states that if too large a crowd can make the septic system fail (line 106), and an applicant's license is suspended if the septic does not comply with LCRA or OSSF then Code Enforcement can shut down a party based on licensed number of people permitted and the septic capacity, as permitted by LCRA. Council Member Ken Beck states those are two different issues being combined. LCRA says nothing about the number of people who can stay overnight, and I don't see a need to have LCRA involved in the Ordinance at all.

Council Member Babs Yarbrough talked to LCRA inspector who said septic inspections are complaint driven right now. Sees no need for LCRA to come out and uncover septic systems without cause.

Council Member Jan Yenawine states that the Ordinance should fall back on LCRA's criteria for septics which limits our STRs to 3 people per bedroom. The LCRA will verify the number of people on an operator's application with the septic on file, then approve that number of allowed guests or not.

Council Member Babs Yarbrough says LCRA will have to come out to inspect. They will not let you know over the phone.

Council Member Judy Graci says there has already been clarification that State Law is 3 people per bedroom, so we should not go over that. Most other Ordinances say people per bedroom, plus a maximum of 2 additional overnight guests.

Council Member Ken Beck says that he would be more comfortable with LCRA involved if we set a number of guests per bedroom. Complaint driven inspections for septic system issues would continue.

Mayor Pro Tem Mark Scott states that there have been documented issues with septics and STRs. LCRA will pull up research in office and LCRA will use a formula for calculating number of people the current septic will handle. Asks Barbara if we make a form for LCRA will they review it for free?

Barbara, when I spoke to LCRA yesterday, I got verbal confirmation that a STR septic did fail and they have required remedial action from LCRA and different usage and the owner has agreed. LCRA does have plans on every septic in the Village. After submitting to LCRA the application and the number of guests the STR operator wants, the LCRA would review their records. They said that OSSF and LCRA would respond with a letter or email of what the cost for this process would be.

Mayor Pro Tem Mark Scott states that the Ordinance cannot have requirements involving LCRA until we know more details about that option.

Barbara responds that the Village will need confirmation of exactly what the cost to the applicant would be. LCRA is willing to work with the Village on this issue, since they have had to intervene and enforce a change of use for a septic stemming from neighbor complaints.

Council Member Babs Yarbrough says that the mentioned situation proves that LCRA involvement should be limited to a complaint driven, as needed basis. Adding that including on front page “all ordinances including LCRA and OSSF Septic regulations” (line 79) would cover septic issues without involving LCRA further.

Tom Buckle, City Attorney, says he would like it listed as a separate line.

Mayor Pro Tem Mark Scott suggests adding a #2 line, “all structures for STR must comply with....”

Council Member Jan Yenawine suggests limiting the number of people permitted to stay overnight to the state standard of three per bedroom.

Tom Buckle, City Attorney, adds that there should be a definition of adults as being over age 16.

Council Member Judy Graci states she would prefer 2 people per bedroom with a max of 2 additional overnight guests, which is more fitting for a residential area.

Council Member Babs Yarbrough suggests a compromise of 2 people per bedroom and 3 additional guests.

Council Member Judy Graci agrees.

Council Member Ken Beck asks that the language of guests being defined as over age 16 be implemented to ensure children could still be guests without adding to the count.

Council Member Jan Yenawine agrees to 2 per bedroom and 3 additional guests, age 16 or over.

Mayor Graber states that Council is now on section C of the proposed Ordinance.

Mayor Pro Tem Mark Scott proposes excluding (d) and (f) until LCRA has something definite in place.

Council Member Ken Beck agrees.

Council Member Ken Beck suggests including a calculation of how many daytime guests are permitted. (e)

Tom Buckle agrees, adding that this point is where the Fire Code should be referenced.

Council Member Judy Graci details guest numbers from other cities' Ordinances. After discussion it is agreed upon to allow 10 additional guests during the day.

Barbara Wilson suggests writing this in so that it states a maximum of 10 additional guests during the day or the maximum number of guests permitted without exceeding the Fire Code.

Barbara Wilson reminds Council that the proposed amount for the first year of permit is \$150 with \$50 renewal fee. Barbara details an example of the complaint process and the fees that the Village would incur during the judicial process.

Tom Buckle responds that the amount the Village would incur is handled by the fines assessed. Attorney fees would not be covered, but could be awarded to the Village to be paid by the guilty party.

Council Member Judy Graci says that some of the other area ordinances require a STR to come in and re-notify neighbors giving them another notice with updated information before renewal of the permit.

Council Member Babs Yarbrough suggests that this information be posted on the website and that STR Operators are required to notify the Village office within 30 days of a change that affects the contact information.

Mayor Graber asks of Tom Buckle if posting people's information as a record online is legally sound if the party agrees to the posting online.

Tom Buckle, City Attorney, responds yes, since it is a business listing.

Council Member Ken Beck asks if clarification needs to be made on point f.

After discussion by Council, removing item f is agreed upon as well as the removal of item g.

Barbara Wilson reads aloud item h.

Tom Buckle, says the verbiage needs to read "administratively incomplete"

Council Member Ken Beck adds that the only party that should determine if an applicant is acceptable for licensing is City Council. If the applicant disagrees then P&Z can see if their application is incomplete or not, but that is all.

Barbara, item 3, there's not a good way to address this but it needs to be raised concern of driveways

After discussion Council agrees to change the verbiage.

Barbara Wilson asks of Council if the wording on item 3 is acceptable.

Council Member Jan Yenawine states that parking on one side of street should be allowable but there still must be 20 feet on the roadway.

Council Member Ken Beck says requiring this of only STR Operators would be discrimination. It would have to be required of every homeowner in the Village of Volente and be put in all of our Ordinances.

Tom Buckle, City Attorney, responds that this should be in each ordinance. Adding that this can be used as a guideline for remodeling all ordinances.

After discussion by Council it is agreed upon that item 3 is approved, eliminating the defined footage.

Mayor Graber asks of Council why is 3 convictions more acceptable than 2.

Council Member Jan Yenawine says that in the first year there is a learning curve. Three incidents could stem from one party.

Tom Buckle, City Attorney, reminds Council that it is not 3 events, but instead 3 violations. One bad rental could rack up three violations quickly.

Council Member Babs Yarbrough asks if it is three violations per year?

Council responds yes and after discussions 3 convictions resulting in loss of license is agreed upon.

Barbara Wilson brings up (8) Effective date.

Council Member Ken Beck asks if there are grandfathering provisions.

Tom Buckle, City Attorney, responds grandfathering provisions could apply but this section is just for licensing. In the permit this verbiage can be added to permit pre-existing bookings.

Barbara Wilson asks for clarification that on the application the verbiage would be added that if an Owner can prove existing bookings, they would be allowed those

Tom Buckle says that yes, you can

Barbara Wilson asks Council about how they would like the signage to be required in the application.

Mayor Graber states that at a hotel all relevant information is on the back of the front door. It makes sense that STRs would have the same signage.

Barbara adds that on the application a Knock box and a sign with address and emergency phone numbers on the inside of the front door is required.

Council Agrees.

Council Member Judy Graci suggests adding the definition of a bedroom, "a bedroom is a room that is designed to be used as a sleeping room and for no other primary purpose"

Council Member Ken Beck asks of Tom Buckle if this is necessary.

Tom Buckle, City Attorney, responds that while it is optional, the issue could arise of an Operator using dining rooms, etc. as bedrooms.

Council agrees that the definition of bedroom be added to the definitions section of the proposed Ordinance.

Council Member Ken Beck asks if there can be a restriction on the number of STRs allowed in Volente

Tom Buckle, City Attorney, responds that Council should be careful considering New Mexico has that allowance but Texas does not.

Council Member Ken Beck details the cap in the City of Austin.

Tom Buckle, City Attorney, responds that if there is a cap in the City of Austin, then he is more agreeable with putting a cap in Volente.

Mayor Pro Tem Mark Scott says he would prefer not adding a cap now, but instead amending the Ordinance later if issue arises.

Barbara Wilson reminds Council that the City of Austin has 63 different zoning categories.

Council Member Judy Graci details Rollingwood's ban on STRs. Says that since the public seems to be against STRs all together, Council should at least discuss banning them.

Tom Buckle, City Attorney, responds that while you can ban STRs, it leaves the Village open for lawsuit. He adds that Rollingwood has not enforced the Ordinance at all, and doing so would open them up to liability as well.

Council Member Jan Yenawine states that STRs are already in existence in Volente and we should try to regulate rather than ban.

Council Member Judy Graci asks Tom Buckle if there needs to be a Noise and Nuisance Ordinance in place, as he suggested, to address the issues that arise with major parties.

Mayor Graber asks if this is within the STR Ordinance or as a separate Ordinance.

Council Member Judy Graci responds that this would be a separate Ordinance.

Tom Buckle, City Attorney, says that the verbiage is in the STR Ordinance and there is the requirement of compliance with all other ordinances if a new one is adopted.

Mayor Graber asks that discussion of a proposed Noise or Nuisance Ordinance take place at a later City Council Meeting.

4. Adjourn.

Council Member Babs Yarbrough makes a motion to adjourn. Seconded by Jan Yenawine. Carries unanimously. Meeting adjourns at 7:47 PM

Approved this 18th day of November, 2014.

Signed:

Mayor Frederick Graber

Attest:

Julia Vicars, Acting City Secretary