



## MEETING MINUTES

### **Village of Volente Regular Council Meeting 16100 Wharf Cove, Volente Texas 78641 Tuesday, September 23<sup>rd</sup>, 2014 at 7 p.m.**

**1. Call to order.**

Mayor Frederick Graber called the meeting to order at 7:07 p.m.

**2. Roll call.**

Council Members Babs Yarbrough, Jan Yenawine, Judy Graci, Ken Beck, Mayor Pro Tem Mark Scott and Mayor Frederick Graber all in attendance.

**3. Pledge of Allegiance, Reading of the Village Statement.**

Mayor Frederick Graber led the Pledge of Allegiance and read aloud the Vision Statement.

**4. Citizens and Public Communications.** (Regarding Short-Term Rentals and in consideration of proposed Ordinance No. 2014-O-11. Scheduled as Agenda Item 10, taken out of order.)

Walt Reed, 7400 Reed Dr.:

Distributed letter stating opposition to STRs prior to meeting. Stated STRs interfere with the quality of life of residents and as a community we should not allow bad behavior. Expressed concern over lack of enforcement and possible overwhelming of septic systems.

Zach Attwood, 16515 Jackson St.:

States loud noise from STRs continually keeps him awake at night. STRs have created safety concerns; their clients trespass onto their property and park numerous cars on the street. Expresses possible fire safety concerns. Describes incident of Boy Scout Troop campout disturbed by STR occupants.

Michael Reed, 7400 Reed Dr.:

Also details Boy Scout campout incident in which the boys were unable to sleep due to the lights, loud music, screaming, and partying.

Barbara Wilson, City Administrator, references a letter sent to Council from the Boy Scout Master.

Gary Murphy, 7324 Reed Dr.:

States he has had trouble getting on the agenda to discuss topics of concern. Expresses concern for lack of enforcement in Volente.

Walt Thompson, 7500 Reed Dr.:

States opposition to STRs. Also concerned about lack of enforcement in Volente. Recommends that STRs existing before incorporation should be grandfathered in but all others banned. States there was an STR in his cove 3 years ago and there were constant problems with noise, profanity and trash. Says there are also STRs that are tightly controlled.

Cecil Martin, 7418 Reed Dr.:

Martin states that STRs are not as detrimental to community as long term renters are. Concerned with the lack of enforcement in Volente and the number of eye sores throughout the Village that should be removed. Mr. Martin cites River Place as an example of strict enforcement of ordinances. Don't allow loud noise; don't allow parties. No child should have to lose sleep. Suggests a deal with the Sheriff's office would benefit the Village. He doesn't mind paying for security.

Anne Steichen, 15807 FM 2769:

Has owned B&B for 20 years in community and never had a problem. Has communicated with STR operators and would like the time to hold a meeting and come to an agreement on what works best for everyone.

Roe Fleenor, 7803 Lime Creek Rd.:

States biggest issue with STRs is the noise they create. They can crop up anywhere and unfortunately not all owners are responsible. For some owners, the money is the prime motivation, therefore something enforceable is necessary. Minimal and effective regulations for Volente are ideal, with enforcement being a priority. Residents may have an occasional party, but STRs create a venue inviting parties on a frequent basis, Some STRs seem to have parties most every weekend.

Rick Redmond, 16107 Wharf Cv.:

Feels that rules and regulations are destroying property values in Volente. His son's house in Volente is "unsellable" and having an STR is the only solution for him. Mr. Redmond states he is the manager of that STR and that the only problem he's ever had in the history of operating a STR is when 50 Cent rented; other than that everything runs smoothly without disturbance.

Mike Gold, 8018 Lakeview St.:

Says that loud music is a norm on his property when he has guests and neighbors are not disturbed. Expresses a need for enforcement when neighbor to neighbor interaction won't suffice.

Linda Reed, 7400 Reed Dr.:

Opposes allowance of STRs in R-1 zoning. States difference between residential owners having a party and transient STR clients having a party is very different because STR clients don't have a long-term interest in the family-oriented neighborhood. They are not concerned with the effect on the neighborhood. Cites New Orleans and Savannah, Georgia (both of which have active Police force), are currently having problems with STRs. Cites Lakeway, that has success with STRs, and has many regulations including no parking on streets. She doesn't want to have to have the Lakeway police SWAT team, but instead wants the simplicity of no STRs in R-1 zoning.

Norma Hutchinson, 7909 Lakeview St.:

Opposes STRs. States that boats are being driven through her yard and beer cans littering her property. Also cites R1 zoning as prohibiting STRs.

##### **5. Mayor's Report.**

Mayor Graber recognizes Kit Hopkins and congratulates her on her work as interim bookkeeper and thanks her for her work improving the Village's financial system. He introduces Julia Vicars who was hired as the Temporary City Secretary. Mayor notifies the audience of a residential burglary on Booth. The Mayor encourages those in attendance of the meeting to sign up for the official Village of Volente e-mail distribution list and read statements he'd recently sent out to the email distribution list addressing short term rentals. (see attached)

##### **6. Finance Committee Report. (Mayor Pro Tem Scott)**

The Annual budget and Finance Committee report are both detailed by Mayor Pro Tem Scott and Kit Hopkins.

##### **7. Staff Reports.**

a. City Administrator/City Secretary Report (Barbara Wilson)

LCRA floodgate warning and back room of the Village offices were flooded. An office computer was hit with CryptoLog, which encrypts everything on the computer. The Fire Department dropped off at the Village Office a Brittany Spaniel they'd found. No responses have been received to claim the "found dog", but there are a couple of residents who have volunteered to adopt him, if he isn't claimed soon. The Village is gathering kind thoughts via email regarding the Travis County Deputy, Jessica Hollis, who drowned while checking low water crossings; a sympathy card from the residents will be mailed. The burglary on Booth exceeded \$1,500; residents are urged to lock up houses and be aware of surroundings.

### **Regular Agenda Items**

- 8. Recommendations to the City Council on Ordinance No. 2014-O-11, regarding 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, by the Planning and Zoning Commission (Allison Thrash, Chair, Planning and Zoning Commission).**

Tom Buckle, City Attorney, lists 4 options and possible plans of action:

1. Do Nothing. Leave Short Term Rentals (STRs) as a civil matter between residents.
2. Prohibit rentals of less than 30 days. This may result in a legal argument that any enforcement is unconstitutional (treating STRs different than Long Term Rentals(LTRs). It could also be ruled as a partial condemnation and that compensation is due to owners for limiting their ability to make income from their property.
3. Revise and Enforce the current R-1 zoning regulations. The current zoning wording and difinitions don't prohibit STRs because no length of time for rentals is ever addressed. In it's current state, the R-1 zoning language is not enforceable to prohibit or regulate STRs. Wording would need to be revised and creation of a system for regulating STRs would need to take place.
4. Adopt and Enforce Citywide regulations regarding noise, traffic, litter, odor, septic & sewage, and unsafe structures. But Volente has never adopted these. These new ordinances serve a legitimate governmental purpose, the protection of health and safety of its citizens and the protection of the quiet enjoyment of one's property and would give you the ability to enforce the issues with STRs.

Allison Thrash, Chair of P&Z:

Thrash details the P&Z recommendations regarding STRs (see attached).

Tom Buckle, City Attorney, adds that a prosecutor (in the event of the 3 strikes you're out policy) would have to be able to prove the violation beyond a reasonable doubt and there would have to be 3 prosecutions before losing your STR license.

Thrash continues with detailing proposal.

Council Member Judy Graci asks about fines associated with complaints. Thrash answers there would be a \$500 fine for each occurrence.

Council Member Babs Yarbrough asks about discussions with LCRA. Barbara, City Administrator, answers that LCRA is willing to work with Volente on STRs regarding the number of people in a residence at one time with concern for shock on septic systems. A license to operate a STR would be dependent upon approval from LCRA.

Council Member Babs Yarbrough follows up, inquiring if this proposal would be discrimination (if property owners could argue that having visitors would be the same sort of shock on septic that LCRA would prohibit). Barbara, City Administrator, answers that this decision is based solely on Health and Sanitation purposes, and thus not discrimination.

Council Member Judy Graci asks about the \$500 fine associated with violations and if this is the biggest amount VOV can charge. Tom Buckle, City Attorney, answers that fine amount would be depending upon infraction. Nuisances have a cap of \$500, Environmental fines can reach \$2,000.

Thrash ends her presentation.

## **9. Close Regular Meeting**

Mayor Graber closes the regular meeting at 8:46 p.m. and opens public hearing.

## **10. Open Public Hearing on Ordinance No. 2014-O-11, Short Term Rentals Ordinance.**

Mayor Graber opens Public Hearing.

Judy Barrick, 15907 Booth Circle:

Suggests that STRs need a town hall meeting with more of the town in attendance so that everyone's input can be heard.

Walt Reed, 7400 Reed Dr.:

States he is opposed to allowing any STRs at all, but that if we have to allow them, to have as strict as possible regulations.

Linda Reed, 7400 Reed Dr.:

Expresses a desire for STRs to be restrictive as possible to both boost the VOV economy (with fines) and keep nuisances down.

Carey Witt, 7328 Reed Dr.:

Agrees with P&Z's suggestions. Other communities have restricted STRs and Volente should be as strong as needed to be with enforcement. Witt is opposed to non-owner occupied STRs but is okay with owner-occupied STRs. States that the Community Survey very clearly showed the desire for Volente to be a residential community and doesn't believe that has changed. He supports STR regulations to be as restrictive as possible.

Dori Witt, 7328 Reed Dr.:

Expresses concern for safety of putting strangers in the neighborhood. Ordinance should be very restrictive, if STRs are allowed.

Walt Thompson, 7500 Reed Dr.:

States he is opposed to allowing STRs. P&Z proposal does not show a method of enforcement to achieve immediate relief from the offensive behavior of STR patrons. Calling the Sheriff is not a solution, because they will not enforce Village ordinances. Suggests a 24 hour hotline for residents to call that garnishes immediate relief for nuisances.

David Dire, 7621 Debbie St.:

Enforcement is a problem, residents cannot call police for relief. States problem is not STRs but enforcement of nuisances and noises. Does not want LCRA involved in VOV decisions. Wants a police force for the Village of Volente. Suggests the matter be tabled til more input can be heard.

Kit Hopkins, 14953 Booth Cir.:

States there have been plenty of open meetings, and that the town has had time to be heard and attend. Enforcement needs to be addressed, which is why P&Z requests STRs inform neighbors, neighborhood pressure may help limit nuisances. The burden of enforcement should be put on the STR owner, not City staff. STR owners are making money on the backs of the neighbors.

Cecil Martin, 7418 Reed Dr.:

No enforcement of current ordinances in place. STRs are not the problem, bad owners are the problem. He states Volente is going to have to allow STRs, so it needs to make the regulations enforceable and says to make STR owners show the Village their contracts.

Mike Roche, 15759 Booth Cir.:

Called police on a STR and police stopped party next door. Expresses concern that an ordinance will not change anything going on with STRs. Wants ordinance tabled until after election and more community involvement in decision.

Rick Redmond, 16107 Wharf Cv.:

Manages a STR. Concerns over lack of notification before ordinance was to be voted on. Self-enforcement and a strong contract are the solution, not another ordinance. Village should read and approve contracts of STR operators. States newer septic systems won't have a problem handling the STR impacts, but older systems will.

Kristi Belote, 15805 Buddy Ln.:

Village needs safety patrol not code patrol. Ordinances need to match Travis County so that Sheriffs can enforce them. Allow the businesses of STRs to come up with a solution. Suggests giving STR operators 90 days to meet and come up with strict contract.

Allison Thrash, 15100 FM 2769:

Village needs noise, odor, litter, and traffic ordinance that can be enforced by police.

Walt Thompson: 7500 Reed Dr.:

Sheriff's office will not enforce local ordinances.

Barbara, City Administrator, mentions that noise ordinances revert back to County code, you have to fill out affidavit and Sheriff's office has a warning system in place to bypass paperwork and court appearances.

Council Member Graci states that enforcement has been an issue for years. Travis County refuses interlocal with the Village to enforce our ordinances. Possibility to hire off duty officers for enforcement and patrol from neighboring areas.

Linda Reed, 7400 Reed Dr.:

Asks City Attorney Tom Buckle if the reason the Sheriff's office won't enforce is because we're incorporated.

Buckle responds yes, but if we unincorporated they would still only enforce County regulations.

Rick Redmond, 16107 Wharf Cv.:

State has a statute noise ordinance that Travis County will enforce.

Council Member Babs Yarbrough says nuisance ordinance wouldn't be necessary because the State's would cover the Village of Volente.

Gary Murphy, 7324 Reed Dr:

States that he has had no problems in past with Sheriff's office answering and resolving nuisance calls.

#### **11. Close Public Hearing.**

Mayor Graber closed Public Hearing at 9:48 P.M.

#### **12. Open Regular Meeting.**

#### **13. Discussion and Possible Action on Ordinance No. 2014-O-11, regarding amending the Village's Zoning Ordinance (Ordinance No. 2004-O-32), codified at article 30, sections 30.15 and 30.133 of the Village's Zoning Regulations; providing the definitions 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. Presentation by Staff**

Barbara Wilson, City Administrator:

Inquires to Buckle if the city can recoup court costs. Tom Buckle, City Attorney, responds that yes the city can, but not Attorney fees. Buckle suggest that with a citation comes an increase in renewal fee for license, possible \$50 plus whatever cost to the Village the citation created.

Barbara Wilson states Emergency Services has a concern with getting to a house if overcrowding of a driveway occurs. Tom Buckle, City Attorney, suggests STR operators turn in a parking plan with an application for a license.

Council Member Ken Beck:

Wants to either use Municipal Court system to enforce ordinance and wants an estimate of cost to do so OR discussing our issues with the Sheriff's office to see if we can have resolution on that end. If Sheriff's office is uncooperative then an estimate cost of hiring police officers is necessary to be presented to residents. Council Member Beck would like to schedule a meeting with STR operators in the next 2 weeks. Ann Steichen is asked to see if this would be a possibility. Council Member Beck suggests that City Council look at the ordinance and make adjustments with regards to LCRA involvement and limits of adults per bedroom.

Council Member Beck would like a Town Hall Meeting before next Council Meeting where STR is only topic of discussion.

Council Member Babs Yarbrough:

Lease agreements and contracts of STR operators need to be read. STR operators should be present at the Town Hall meeting. Main complaint is loud parties and party atmosphere. Recommends a cap on the number of people allowed to occupy a STR at one time. Recommends Council choose between Buckle's 4 options.

Council Member Judy Graci:

Council should have a workshop to go through options before Town Hall Meeting. STR should not be venues, ordinance required to deal with issues like number of people.

*Motion by Council Member Jan Yenawine for Town Hall Meeting within 14 days. Seconded by Mayor Pro Tem Mark Scott. Yays : Mayor Pro Tem Mark Scott and Council Members Judy Graci, Ken Beck, and Jan Yenawine. Nay: Babs Yarbrough. Motion passes.*

Mayor Pro Tem Mark Scott:

The issue is not STRs but instead noise and parties. A cap on number of people allowed at an STR is unenforceable.

Council Member Jan Yenawine:

If STRs are going to succeed they will need more clientele than the LCRA will allow based on septic. If more than two people are allowed, the septic system should be designed for the number of people that are allowed to use it.

Council Member Babs Yarbrough:

States she was Nay on the motion (above mentioned) because of community's concern that the ordinance is being rushed for no reason.

*Council agrees on Wednesday, October 1<sup>st</sup> for Workshop at 6 pm at the Village of Volente offices. Council agrees on Saturday, October 4<sup>th</sup> for Town Hall Meeting at 10am in the Fire Hall. Motion by Council Member Jan Yenawine to set these dates. Seconded by Mayor Pro Tem Mark Scott. Motion Unanimously passed.*

Mayor Frederick Graber volunteers to put up a poster for Town Hall meeting and Meet the Candidates forum at the Village Monument.

#### **14. Discussion and Possible Action on the Development of Nuisance Ordinance.**

City Attorney, Tom Buckle, is going to send example ordinances to Village offices for review.

Barbara Wilson, City Administrator, states that noise, odor, litter and light are under common law nuisance ordinances. The State's standard for a noise ordinance is based on decibel and only enforced upon decibels reaching deafening levels.

Allison Thrash, Chair, Planning and Zoning states that the noise ordinance in effect now is only in regards to Industrial noise.

Mayor Pro Tem Scott suggests a nuisance ordinance would be more applicable, since a noise ordinance has to be proved by decibel and a nuisance ordinance is more subjective. Council Member Babs Yarbrough brings up recurring concern by community of enforcement.

*No action was taken at this meeting and the issue was tabled.*

#### **15. Discussion and possible approval of Job Description for Temporary City Secretary position.**

Job Description will need to be modified for legal purposes.

Mayor Graber suggests an Ad Hoc meeting at a time later decided to discuss this agenda item.

*Mayor Pro-Tem Mark Scott made a motion to form an Ad Hoc Committee of Mayor Frederick Graber, Mayor Pro Tem Scott, Council Member Ken Beck, and Kit Hopkins to look at the Personnel Agreements. Motion seconded by Council Member Jan Yenawine. Motion Unanimously passed.*

#### **16. Recommendations to City Council on the Community Survey.**

Allison Thrash, Chair, Planning and Zoning:

P&Z recommends to reissue original survey with a possible date of October 15<sup>th</sup>. Original survey included registered voters and property owners and random selection of those outside the Village. P&Z recommends sending to property owners and possibly registered voters. Send with cover page with one question at end of pros and cons of un-incorporating or remaining incorporated.

#### **17. Discussion and Possible Action on the Community Survey's final form and possible launch date.**

Pros & Cons to be sent with survey need to be rewritten from unbiased point of view. Possibly use SurveyMonkey for this question.

Mark Scott asks for clarification of who receives a Survey. It is determined property owners will receive a Survey, one for each parcel of land owned.

*Motion by Council Member Jan Yenawine for property owners to receive one survey per property of original (2004) survey mailed on October 1<sup>st</sup> to be due October 15<sup>th</sup>.*

*Seconded by Mayor Pro Tem Scott. Yays of, Mayor Pro Tem Scott, Council Members Jan Yenawine and Judy Graci. Nays of Council Members Babs Yarbrough and Ken Beck.*

## **18. Discussion and Possible Approval of a Contract with ATS for Building Plan Review, Inspections, Site Development Compliance and Code Enforcement.**

Carl Finney, representative of ATS:

ATS will be available for consulting purposes as well. Updating to a newer code will require more inspections and tests, services ATS can provide within contract.

Council Member Beck asks of Finney what the staffing of his company is like and will he be the interface.

Finney says the process begins at ATS offices but he would be the face of ATS for the community. When plans are sent in, ATS identifies what inspections need to be done for the house then sends plan back with write up of what the cost would be.

Council Member Babs Yarbrough inquires as to the additional costs someone building a home may incur.

Finney states that building code dictates what inspections are to be done, so the amount of inspections needed would determine the costs to the homeowner. ATS is not charging above flat rate. The amount charged for inspections is up to the Village. ATS would also enforce city building ordinances, which are not being enforced currently. The contract would be one fiscal year.

*Council Member Ken Beck moves to accept contract with ATS. Council member Jan Yenawine seconds. Motion Unanimously passed.*

SHORT BREAK WAS TAKEN AND THE MEETING RECONVENED AT 10:58 P.M.

## **19. Discussion and Possible Action on Fiscal Year 2014/2015 Budget.**

### **a. Kit Hopkins Presentation of the Budget**

Kit Hopkins presented the proposed budget highlighting that Code Enforcement costs can be drastically reduced now with contract with ATS. TMRS will be taken down to zero and VOV will decide what to contribute to a 401K. City Secretary position is dropped down to half-time with allowances made for additional hours for meetings.

*Council Member Ken Beck makes a motion to approve version 7 of the draft Budget as presented by the Finance Committee and Kit with adjustments to be made to reflect best estimate of change of accountant, part-time secretary, TMRS, and code compliance. Seconded by Mayor Pro Tem Mark Scott, Motion Unanimously passed.*

**20. Discussion and Possible Action on Replacing Members of Planning and Zoning Committee.**

**a. Moving Rhett Scudder from Alternate Position 2 to Committee Place 1, Replacing Babs Yarbrough.**

**b. Jeff Browning for Committee Position 5, Replacing Missy Thost.**

Allison Thrash, Chair, Planning and Zoning approves Scudder's move to permanent position but wants to recognize Babs and Thost for their service.

*Council Member Ken Beck made motion to approve movement of Rhett from alternate position 2 to Committee Place 1 and Jeff Browning for Committee place 5. Motion seconded by Council Member Babs Yarbrough. Motion Unanimously passed.*

**21. Discussion and Possible Action on Appointing Babs Yarbrough as Chair of the Public Safety Committee.**

*Council Member Jan Yenawine made motion to approve. Seconded by Mayor Pro Tem Mark Scott. Motion Unanimously passed.*

**22. Adjourn**

*Council Member Jan Yenawine makes motion to adjourn. Seconded by Mayor Pro tem Mark Scott. Motion Unanimously passed.*

Approved on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Mayor, Frederick Graber

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Acting City Secretary, Julia Vicars