

**REGULAR COUNCIL SESSION**  
**609 29<sup>th</sup> Street, Vienna, WV 26105**  
**July 22, 2021**  
**6:00 P.M.**

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

The Invocation was given by Sara Klesel. The Pledge of Allegiance was led by Recorder Melissa Elam.

**CALL TO ORDER:**

The Vienna City Council met in Regular Session on July 22, 2021. Mayor Randy Rapp called the meeting to order at 6:01 p.m.

**PUBLIC FORUM:**

Henry Sasyn (1307 Greenmont Hills Dr.): Believes there should be structure for zoning drug rehab in residential homes. Rules should be followed or there will be chaos.

Autumn McCraw (1116 Smith St., Charleston, WV): Represents WV Alliance of Recovery Residences. It is a certifying agency for sober living homes. Explained differences between recovery and treatment housing. In the Parkersburg area, there are 283 treatment beds and only about 70 recovery beds to step down into. Certified recovery housing drastically improves the recovery success rate.

Brenda Powell (1409 31<sup>st</sup> St.): There should have been something in place to help the community adjust to the recovery effort. She asked what happens next and what do we hope will happen while the moratorium is in place? She believes if the ARP money goes to the Utility Board it should be specifically stated what it should go to.

Kendra Metz (1005 30<sup>th</sup> St.): She addressed the fear-based comments that are happening about sober living homes. She personally benefited from a sober living home after her own recovery and is thankful for it. Believes the moratorium will do a disservice to the community.

Greg Whittington (1800 Walgrove Rd., Elkview, WV): Works with the ACLU West Virginia. The moratorium will violate the ADA and Fair Housing Act. He asked Council to table the moratorium to get citizens together and find a path forward so the solution won't violate anyone's rights.

Tim Archer (1001 49<sup>th</sup> St.): He would like a public meeting about development of Spencer's Landing. He emphasized the need for a boat and kayak launch. This administration and previous administrations have failed to secure property to use for public access to the river. He wants to know if 12<sup>th</sup> Street is still owned by the city. Wants to know what has happened to the ideas from the citizens. What is the environmental status at Spencer's Landing? Can anything ever be built there without disturbing the chemicals left by Johns Manville? Citizens have good ideas and they deserve to be heard.

Haley Meredith (1209 Greenmont Hills Dr.): Everyone is well aware of the problem. Feels that Wood County is doing all the work for the state. We are overwhelmed. The moratorium would create the pause we need. People are sneakily buying up homes. There is corruption. Believes sober living homes should be in commercial areas not residential. Don't give citizens a reason to walk away. Give people a reason to stay.

Chris Mancuso (617 27<sup>th</sup> St.): Moved back here because he sees the potential. Comes from a design background. Understands the needs of communities through that lens. Feels there is a lack of direction and decision making. Suggests a Comprehensive Plan because our last one was from 2007. What is being done to get it done?

Joe Weaver (2 Foxboro Dr.): Cannot find requirements for rehab housing. He is a business owner and finds heroine needles in his parking lot. His business has been broken into and has found people living in his storage units. For the first time in Vienna, he looks over his shoulder.

Emma Sasyn (1307 Greenmont Hills Dr.): Requesting a crosswalk at 46<sup>th</sup> Street because there is a button but no crosswalk. Suggests a crosswalk between Frostee Shoppe and Dollar General. She is a teenage girl and dog sitter and would worry if a recovery house was in her neighborhood.

Aaron Van (North Hills): Has spent 20 years helping people come out of addiction. Jesus made it clear that he served people with no money or power. He believes Parkersburg is making a mistake by not inviting treatment and recovery leaders to work with them. Asks Vienna to not make the same mistake.

**ROLL CALL:**

Attendance was taken by Recorder Melissa Elam with the following Council members present: Kim Williams, Roger Bibbee, Mike Elam, Jim Leach, City Attorney Russell Skogstad, Recorder Melissa Elam, and Mayor Randy Rapp. Absent: Tom Azinger.

**REPORT OF THE MINUTES:**

The minutes of the Regular Council Session scheduled on 7/8/2021 have been printed, posted, and circulated.

Recorder Melissa Elam will make a date correction under Call to Order. It will read July 8, 2021 not June 24, 2021 as it was originally printed.

The minutes were approved.

**UNFINISHED BUSINESS:**

1. **None.**

**NEW BUSINESS:**

1. **RESOLUTION: Reappointment of J. Ryan Full to the Library Board of Trustees**

**Councilman Jim Leach moved to approve the Reappointment of J. Ryan Full to the Library Board of Trustees. Motion seconded by Councilman Roger Bibbee.**

No discussion.

**Roll call vote taken by Recorder Melissa Elam. Councilman Mike Elam, Councilman Roger Bibbee, Councilman Jim Leach, Councilwoman Kim Williams, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 6-0.**

2. **ORDINANCE – FIRST READING: Imposing a Moratorium Upon New Substance Abuse Rehabilitation Group Residential Facilities**

Mayor Rapp addressed the ordinance. There is a huge need for recovery facilities. We do not want to turn our back on people who need our help. The facilities that are coming to our area are something we need to deal with. When we pulled the paperwork that was provided it caused concern. Use of premises clearly stated it would be a single-family residence but that is not true. There should be rules and certifications to allow the neighbors and community know that whatever takes place in the house that there will be supervision. There is no supervision or treatment. Six days after the facility opened, there was an overdose. When asked where the needle was officers were told it was gotten rid of. The moratorium is simply asking for time to let the WV Legislation to determine a path for us to take as a municipality. The house in Vienna is not certified. WVARR is going to be the certifying agency in WV. He would like to meet with them and the City of Parkersburg to find some middle ground. We want to protect our neighborhoods and be able to provide the services needed in the recovery homes. The Legislature will meet in September to discuss these items.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIENNA that in support of the adoption of this Ordinance the following findings are made:

1. The provisions of West Virginia Code 27-17-1, define “Group Residential Facilities” and “Group Residential Homes” as residential facilities for persons with a “Behavior Disability”, not to exceed twelve residents, which includes persons undergoing substance abuse treatment and rehabilitation;
2. The provisions of West Virginia Code 27-17-2 explicitly mandate that Group Residential Facilities and Group Residential Homes shall be a permitted use for purposes of zoning in residential and all other zoning districts of a municipality. However, the statute is silent as to the extent the location of such facilities or homes may be geographically restricted or limited as permitted uses, nor does the statute preclude regulation of similar facilities exceeding twelve residents;
3. There has been a proliferation of substance use facilities within Wood County, West Virginia, and the City of Vienna. Specifically, recent statistics reflect that approximately 26% of beds in such facilities in the entire State of West Virginia are located within Wood County;
4. The City of Vienna has less than 1% of the population of the State of West Virginia. Accordingly, the existence of facilities for substance abuse rehabilitation presently located

within and around the City are far out of proportion to that which would be otherwise needed for residents of the City and surrounding areas, and a substantial portion of residents in such facilities are from outside the geographical area of the City of Vienna and Wood County;

5. There is a significant percentage of residents of substance abuse facilities who either are involuntary evicted from programs or voluntarily terminate participation in such programs. As a result, a substantial number of individuals who did not previously reside in the geographical area of the city remain in this area without family or other support structure, many of whom become homeless;
6. The recent increase in the homeless population of the City of Vienna, and Wood County, significantly impacted by the proliferation of substance abuse facilities, has been detrimental to the health, safety, and welfare of the citizens of the City for many reasons, including the following:
  - (a) The City of Vienna has experienced a substantial increase in the homeless population, which has contributed to a rise in crimes such as shoplifting (46% increase over the past year) and overdose calls which have seen a 22% increase. Drug related calls have increased 16%. The city believes that there is a correlation between the proliferation of substance abuse facilities and the increase in the homeless population.
  - (b) Numerous persons voluntarily leave such facilities or are involuntarily expelled, many of whom then remain in the Vienna area without a place to live. Further, a significant number of persons residing in substance abuse facilities are not from the Vienna and Wood County geographical area.
7. Extended time is needed for the Council of the City of Vienna to consider possible changes to zoning and/or other ordinances to regulate or limit substance abuse facilities, and it is possible that the West Virginia Legislature may address the issue during its 2022 Session.
8. While it is recognized that substance abuse facilities perform an important and necessary function, based on the findings as herein set forth there is a compelling basis, in the interests of the public health, safety, and welfare of the City, to temporarily preclude the establishment of any additional such facilities for a limited period of time.

It is therefore ORDAINED BY THE COUNCIL OF THE CITY OF VIENNA that a MORATORIUM upon the establishment of any Group Residential Facilities or Group Residential Homes is hereby imposed until JUNE 30, 2022. The provisions hereof shall have no effect upon any such facilities in existence as of the date of the adoption of this Ordinance.

**Councilman Mike Elam moved to approve the Imposing a Moratorium Upon New Substance Abuse Rehabilitation Group Residential Facilities. Motion seconded by Councilman Roger Bibbee.**

Councilman Mike Elam said everyone is on board with recovery. There is a great need for them but there are so many unknowns. The moratorium will give us time to get it right. Asked agencies to educate us. Glad the legislators are going to be working on this. He will look at the literature provided by WVARR.

Councilman Roger Bibbee is concerned about the lack of transparency. It would be premature to let things go as is.

Councilman Jim Leach stated there are needs and everyone has rights. We have a duty to protect our citizens. We have a right to stand for the community. We are asking fair questions. We have a good faith basis to take another look at it.

Councilwoman Kim Williams asked for the difference in a group residential facility and group residential home. Attorney Russ Skogstad responded that they are essentially a boarding house. The Legislature created unintended consequences in trying to prevent "Not In My Backyard". The city's ability to enforce its own codes has been limited. There are logistics like parking spaces that are being bypassed. It is the same issue whether it is substance abuse or anything else. The state has obviated our ability to regulate our city. Ms. Williams stated Oxford House is protected by the ADA and Fair Housing Act. Mr. Skogstad encouraged council not to analyze the problem from a substance abuse standpoint. We want to regulate all properties equally. R1, R2, and R3 have to live a certain way according to the city plan. Ms. Williams asked how Vienna is going to find the magic solution to an issue that is 45 years old and nationwide. She asked how it is enforced. Mr. Skogstad responded with Certifications of Occupancy, citations, inspections, etc. Ms. Williams stated it won't stop anyone from buying homes to use for sober living. She has an issue with ordinances that can't be enforced.

Councilman Roger Bibbee does not see the moratorium as the solution but he is hopeful that it will be an opportunity for municipalities and the legislature to work on a solution.

Ms. Williams stated we are opening ourselves up for lawsuits and the taxpayers will have to pay for it.

Recorder Elam stated she doesn't want recovery to fail. She thinks the recovery effort doesn't have a good foundation. When the epidemic hit our state, everyone mobilized but we need to go in the same direction. The right thing in the wrong way won't work. She challenged state leaders to make the recovery effort successful and sustainable.

**Roll call vote taken by Recorder Melissa Elam, Councilman Mike Elam, Councilman Roger Bibbee, Councilman Jim Leach, Recorder Melissa Elam, and Mayor Randy Rapp voting "yes". Councilwoman Kim Williams voting "no". Vote: 5-1.**

**Mayor Rapp addressed questions from public comments:**

- Regarding the property on 12<sup>th</sup> Street: Vienna is in a lease/purchase agreement with the ACE Foundation. We technically own it because it is not paid off.
- Regarding the kayak launch: The federal government has not sent the check yet. We will begin it when we get the money.
- Regarding the comprehensive plan: We have operated under it for 10 years. Started two years ago working on the new one with West Virginia University and Wood County. The Planning Commission was given the plan we used for the last 10 years. We are waiting on their input.
- Regarding the 46<sup>th</sup> Street crosswalk and 32<sup>nd</sup> Street: It is a state highway and not up to us.

### **3. UPDATE: Johns Manville Production Side**

Councilman Jim Leach reported that we are in the final stages of remediation. The DEP and a Licensed Remediation Specialist were on site and felt we completed the cap above and beyond what was required. One final meeting will happen.

### **4. DISCUSSION: To Have a Public Meeting for Developing Spencer's Landing**

Mayor Rapp said we will have a public meeting in the community building. In 2-3 weeks, we will be done with the state for the production side. Until we get the money for the kayak launch from the federal government we will not start it. We cannot reimburse ourselves for work we have already done.

Councilwoman Kim Williams asked that we get a meeting scheduled.

Recorder Elam asked if the money we are waiting for can be used for anything else at Spencer's Landing. Mayor Rapp said it has to be used for river access to the islands.

Mayor Rapp said he will get the meeting scheduled and noticed.

### **5. DISCUSSION: American Rescue Plan Fund Council Plans**

Councilman Mike Elam requested it to be an agenda item as a Resolution to give the full amount to the utility board.

Councilman Jim Leach agrees that we need to move forward because everyone has expressed what they want the money to go toward.

Councilman Roger Bibbee still wants to see the money go toward other needs in the city.

Councilwoman Kim Williams reminded council that the CARES Act money is one of the buckets we can use to take care of the needs Mr. Rogers is referring to.

Mayor Rapp got a bridge inspection report from the Department of Highways. There are no load restrictions on any bridges in Vienna. However, the 27<sup>th</sup> Street bridge has moved up as priority over the 17<sup>th</sup> Street bridge. Councilman Mike Elam asked if the bridge has to be replaced. It was answered no.

### **COUNCIL COMMENTS:**

Councilman Roger Bibbee addressed the 46<sup>th</sup> Street and light button issue. It is very difficult to get the Department of Highways to make these issues a priority.

Councilman Jim Leach thinks the walking trail can be adapted to any plan for Spencer’s Landing. He would like to see a measured response to test what people like to do and how they will use the property.

Recorder Melissa Elam thanked Craig Metz for the Public Works tour.

**Meeting adjourned at 8:09 p.m.**

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Melissa Elam, Recorder

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Randall C. Rapp, Mayor

APPROVED: \_\_\_\_\_  
                  Initials                    Date