

**REGULAR COUNCIL SESSION**  
**609 29<sup>th</sup> Street, Vienna, WV 26105**  
**January 14, 2021**  
**7:00 P.M.**

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

The invocation was given by Diane Wooten. The Pledge of Allegiance was led by Councilwoman Kim Williams.

**PUBLIC FORUM:**

1. Jack Heater – 4301 Sandalwood Place, Vienna, WV 26105
2. Greg Frazier – 1210 22<sup>nd</sup> Street, Vienna, WV 26105

**CALL TO ORDER:**

The Vienna City Council met in Regular Session on January 14, 2021. Mayor Randy Rapp called the meeting to order at 7:10 p.m.

**ROLL CALL:**

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

**REPORT OF THE MINUTES:**

The minutes of the Regular Council Session scheduled on 12/10/2020 have been printed, posted, and circulated. With no corrections, the minutes were approved as posted.

**REPORT OF THE TREASURER:**

Councilman Jim Leach reported that the Reconciliation of Funds dated 1/11/2021 indicates the City is solvent and the bills are paid.

**UNFINISHED BUSINESS:**

**1. Ordinance – 2<sup>nd</sup> Reading – Requiring a Public Utility to Post Bond to Pay for Damages to Public Property and Requiring Them to Notify the City When They Are Present to Work, Where They Are Working, and What Work They Are Performing:**

With authority granted to it by **WV Code 8-12-5(46)**, the City states as follows:

The City finds it benefits the citizens of the City of Vienna for the City to not interfere with a public utility's desire and ability to repair, replace, install, and maintain electric, water, sewerage, natural gas, cable television and/or telephone distribution systems;

When repair, replacement, installation, and maintenance of the said distribution systems takes place, it is sometimes necessary for the City to reroute pedestrian or vehicle traffic. It is occasionally necessary for the City to use street cleaning equipment or road maintenance and repair equipment to clean or repair a city street, sidewalk, or another pathway, after the public utility has completed its work; and

Occasionally public utilities undertake repair, replacement, installation, and/or maintenance projects within the City without notifying the City.

On occasion, public utilities leave City streets and/or sidewalks in an unclean or unsanitary condition that inconveniences the public or poses a danger to the public health, safety, and welfare.

From time to time, equipment necessary to the public utility blocks traffic, both pedestrian and vehicle, inconveniencing citizens, and potentially delaying emergency services from effectively responding to calls for service.

If the public utility makes contact with the City, the City can work with the public utility to minimize their impact upon the public and the City's ability to provide health, sanitation, and emergency services;

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

- (a) Every public utility provider as defined herein shall execute a continuing bond in a form prescribed and accepted by the City Finance Director, with satisfactory corporate surety, in the penalty of \$10,000.00, payable to the City of Vienna.
- (b) This bond is conditioned such that the public utility, as defined herein, shall pay damages to any entity, including the City, due to any act or action done, performed or taken by such public utility in or about the conduct of its business.
- (c) This bond is also conditioned such that the public utility shall notify the City not less than five business days before beginning any repair, replacement, installation, and/or maintenance project within the corporate limits of the City of Vienna. Notice shall include notifying the City of:

1. the nature of the work,
  2. the location of the work,
  3. and the date and time the work is scheduled,
    - i. provided that, in the event of an emergency repair, the public utility shall notify the Office of the Mayor, the manager of the Vienna Utility Board, the Public Works Director or the Vienna Police Department, as soon as is reasonably possible, but no later than 24 hours after the commencement of any work, unless such work begins on a weekend or a holiday, and then the next immediate business day during regular business hours.
- (d) Cable television, satellite television, telephone, and Internet Service Providers are hereby excepted from the notice requirement of this ordinance for the installation and/or repair of service equipment or lines, i.e. the installation, repair, or replacement of cable boxes, modems, routers, satellite dishes or receivers, and/or phones, internet or cable lines or wires, connected to a residence or business for purposes of providing service to a customer.
- (e) For purposes of this section, "public utility" includes any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in any business, whether herein enumerated or not, which is, or shall hereafter be held to be, a public service including, but not limited to, electric, gas, water, sewerage, telephone (wireless or plain old telephone service), and cable television service providers, their contractors, sub-contractors or assigns.
- (f) Failure to post bond may result in a \$100 fine per day for any public utility as defined above operating within the City without said bond. In addition to the fine, the City of Vienna Code Enforcement Office may issue a stop work order to any non-compliant entity and, should the entity fail to comply with the stop work order, may petition the Wood County Circuit Court to enjoin the entity from performing work or continuing work without said bond.

**Councilman Mike Elam moved to approve the Ordinance, on second reading, requiring a public utility to post bond. Motion seconded by Councilman Roger Bibbee.**

There was no additional discussion.

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

**NEW BUSINESS:**

**1. RESOLUTION – Approving Jim Leach as Vienna City Council appointee and representative to the Vienna Utility Board.**

**BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF VIENNA**, that Vienna Council Member, Jim Leach, is hereby appointed to serve as the Vienna Council Representative to the Vienna Utility Board for one full term, said term to begin upon approval of council and ending December 31, 2024.

Before asking for a motion Mayor Rapp addressed concerns he was aware of concerning Mr. Leach's appointment. He stated that Mr. Leach would no longer serve on the Planning Commission but would continue serving in Budget and Finance. He felt Mr. Leach's education and knowledge of environmental issues made him a good choice and was very qualified to fill the role. (Councilman Leach dismissed himself from the room during the discussion.)

**Councilman Roger Bibbee made the motion to approve Jim Leach as Vienna City Council appointee and representative to the Vienna Utility Board. Motion seconded by Mayor Randy Rapp.**

There was no discussion.

**Roll call vote taken by Recorder Melissa Elam. Councilman Roger Bibbee and Mayor Randy Rapp voting "yes". Councilman Mike Elam, Councilman Tom Azinger, Councilwoman Kim Williams, and Recorder Melissa Elam voting "no". Vote: 2-4. (Councilman Jim Leach did not vote and returned to Council Chambers after the vote.)**

**2. RESOLUTION – Approving the use of govdeals.com as an online auction platform.**

Councilman Jim Leach explained govdeals is an auction platform used by municipalities to liquidate excess inventory. The city of Vienna is actually conducting the auction. The city would publish and manage all listings. Govdeals is a “buyers premium only” so there is no cost to the city. Mayor Randy Rapp explained that Amy Roberts and the Finance Department have agreed to take the project on. He believes we can do it in house. Councilwoman Kim Williams asked for the value of the items on the list and is concerned about the hidden costs such as the time it will take the Finance Department to add this to their list of responsibilities. She also asked about the process for legal notices for multiple listings. Attorney Russ Skogstad suggests that legal notices should be put in each time we do an auction but not for each individual item. We are also not marrying ourselves to govdeals for every auction. It is being considered right now for the list of items we currently have. Recorder Melissa Elam asked if Amy Roberts will have a team of people to help with listing items. Mayor Randy Rapp stated that department heads will complete detail sheets for each piece of equipment that will be auctioned. There are also people lined up to take pictures and detail the items. Councilman Mike Elam asked if city employees could bid on the items also and Mayor Rapp answered yes. Councilman Tom Azinger asked if the money for items confiscated in drug deals, etc. is put in a separate funds and Mayor Rapp answered yes. Councilwoman Kim Williams asked about probationary period for the site. Councilman Jim Leach stated that it is a graduated process that as bidders gain credentials from successful transactions they are eligible to bid on different levels of items. Attorney Russ Skogstad expressed that as elected officials we cannot ethically bid on items that we are responsible for authorizing the release of for auction.

**BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF VIENNA**, that it hereby approves govdeals.com as the City’s online auction platform service for purposes of the selling, disposing, or conveying of City property and authorizes the Mayor and Finance Director to administer the same.

Further, the mayor, finance directory, their agents or assigns, are authorized to publish, as is required by WV Code 8-12-18(b), a class II legal notice, notifying the public of the location of the online auction sale and the list of items to be auctioned/sold.

**Recorder Melissa Elam moved to approve the Resolution approving the use of govdeals.com as an online auction platform. Motion seconded by Councilman Jim Leach.**

No further discussion.

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

**3. RESOLUTION – Authorizing for sale by internet auction of personal property (not real estate), including vehicles, police cruisers, and other property items.**

As per West Virginia Code 8-12-18(b) and Vienna Municipal Code 107.05(c), the City of Vienna hereby offers for sale the following items:

**LIST AND DESCRIPTION OF ITEMS**

- |                            |                  |                         |
|----------------------------|------------------|-------------------------|
| • 2009 Pontiac G6          | Mileage: 106,424 | Last four of VIN: 6290  |
| • 2006 Chevrolet Malibu    | Mileage: 95,134  | Last four of VIN: 9633  |
| • 2000 Ford Crown Victoria | Mileage: 98,933  | Last four of VIN: 0453  |
| • 2004 Jeep Laredo         | Mileage: 89,282  | Last four of VIN: 4267  |
| • 2005 Dodge Durango       | Mileage: 80,401  | Last four of VIN: 9682  |
| • 2006 Dodge Charger       | Mileage: 93,506  | Last four of VIN: 1109  |
| • 2007 Honda Odyssey       | Mileage: 85,735  | Last four of VIN: 6566  |
| • 2007 Dodge Charger       | Mileage: 96,623  | Last four of VIN: 2680  |
| • 2009 Dodge Charger       | Mileage: 85,779  | Last four of VIN: 6000  |
| • 2013 Nissan Sentra       | Mileage: 137,100 | Last four of VIN: 3407  |
| • 1993 John Deere          | Mileage: 5,545   | Last four of VIN: 15-4W |
| • 2008 Mercury             | Mileage: 70,860  | Last four of VIN: 0859  |
| • 2006 GMC 2500 4WD        | Mileage: 71,741  | Last four of VIN: 6704  |
| • 2008 Ford Escape         | Mileage: 46,688  | Last four of VIN: 6475  |
| • 6’ Finishing mower       |                  |                         |
| • 61” Turf Tiger mower     |                  |                         |

- 48" Ferris mower
- Large John Deere with 3 mower decks
- 2000 Ford crown Vic                      Mileage: 107,798
- 2003 GMC ¾ ton with dump bed       Mileage: 109,666
- 2003 Dodge Dakota                      Mileage: 108,681
- 2000 2-wheel drive green mule
- 6' Field groomer
- 5' drag box (damaged)
- Dog Warden box for truck (at PW)
- 2004 Dodge Merinar
- 1987 Air compressor/Sullair    Last four of Serial: 2WFO
- Hydraulic Hammer    Last four of Serial: 6616

Further, for all police cruisers/vehicles, if sold to a duly authorized state, county, district, municipality, or federal agency employing one or more persons whose responsibility is the enforcement of the laws of any state, county, or municipality or their equivalent, may be sold with lights, sirens, radios, cages, or any other law enforcement related equipment attached to or installed in the vehicle; should any police cruiser/vehicle be sold to an individual or entity that is not a law enforcement agency as set out above, then said vehicle shall be sold **WITHOUT** any of the law enforcement related equipment as set out above. Any solicitation of a police cruiser/vehicle shall reflect the same. Any law enforcement agency may, at the request of the City, be required to provide proof that they are a law enforcement agency.

Further, the mayor, finance directory, their agents or assigns, are authorized to publish, as is required by WV Code 8-12-18(b), a class II legal notice, notifying the public of the location of the sale and the items to be auctioned/sold.

**Councilman Mike Elam moved to approve the Resolution authorizing for sale by internet auction the list of items previously read. Motion seconded by Councilman Roger Bibbee.**

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

**4. GENERAL FUND BUDGET REVISION #2**

Councilman Jim Leach explained that the money for the painting of the light poles was actually in last year's budget and needs reappropriated into this year's budget. Money has been donated by Sam's Club for the completion of the fencing at Neal Cook Cemetery. It was from a prior year and needs moved to this year so it can be used. Parks and Fire sharing cost on electrical work in Spencer's Park. Fire Chief Steve Scholl explained that the current electrical equipment is in poor condition. Some pieces are missing and the original installation was not the right equipment. It is a safety hazard.

**MEMORANDUM**

TO: JIM LEACH  
 FROM: Amy Roberts  
 SUBJECT: 20-21 GENERAL FUND BUDGET REVISION #2  
 DATE: 1/12/2021

DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
			NET INCREASE / (DECREASE) TO REVENUE		0	
Parks	540-15	Maint. Bldgs & Grounds	Painting Jackson park light poles. Money originally budgeted in prior year.	50,000	17,125	67,125
Parks	540-15	Maint. Bldgs & Grounds	Repair electrical at Spencer Park	67,125	3,750	70,875
Parks	540-58	Capital Outlay - Other	Reappropriating donations from Sam's Club for completion of Neal Cooke cemetery	55,000	5,000	60,000
FIRE	500-15	Maint. Bldgs & Grounds	Repair electrical at Spencer Park	10,000	3,750	13,750
CONTINGENCIES	699		COVER THE ABOVE REVISIONS	145,650	-29,625	116,025
			NET INCREASE / (DECREASE) TO EXPENDITURES		0	

**Councilman Jim Leach moved to approve the General Fund Budget Revision #2. Motion seconded by Councilman Roger Bibbee.**

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

**5. STREET DEPARTMENT: APPROVAL TO BID STREET SWEEPER**

Did not need to be on the agenda because approval is not needed for advertising.



# RECONCILIATION OF FUNDS

## CITY OF VIENNA

January 11, 2021

FUND	BEGINNING BALANCE AS OF 12/07/2020	NET CHANGES	ENDING BALANCE AS OF 01/11/2021	UNITED BANK			UNITED BANK		COMMERCIAL B & T
				NON- INTEREST BEARING	LIQUID ASSET FUND	US GOVT. FEDERAL AGENCY SECURITIES	FEDERATED FUNDS	FEDERAL AGENCY SECURITIES	U.S. GOV'T. SECURITY
YIELD:				-0-			VARIES		
GOVERNMENTAL: GENERAL	5,148,111.96	-314,108.16	4,834,003.80	55,000.00	4,779,003.80				
SPECIAL REVENUE:									
COAL SEVERENCE	55,374.05	-3,247.39	52,126.66		52,126.66				
EXCESS LEVY	0.00	0.00	0.00		0.00				
CAPITAL RESERVE	5,729,685.98	0.00	5,729,685.98		5,729,685.98				
DONATION FOR P&R (ROUNDING)	4,340.12	105.64	4,445.76		4,445.76				
					0.00				
PROPRIETARY:									
ENTERPRISE:									
WATER-UNRESTRICTED	410,982.30	37,206.56	448,188.86	0.00	448,188.86				
WATER - RESERVE	158,087.00	0.00	158,087.00						
SEWER*****	380,209.17	37,699.59	417,908.76	0.00	417,908.76				
SEWER - RESERVE	230,335.00	0.00	230,335.00						
STORM WATER	244,668.01	4,282.06	248,950.07		248,950.07				
FIDUCIARY:									
TRUST:									
EMPLOYEE'S RETIREMENT	3,150,135.93	0.00	3,150,135.93				3,150,135.93		
POLICEMEN'S RETIREMENT	11,168,046.11	297,475.99	11,465,522.10			11,465,522.10			
MCDONOUGH	179.95	0.00	179.95		179.95				
TOTALS	26,680,155.58	59,414.29	26,739,569.87	55,000.00	11,680,489.84	11,465,522.10	3,150,135.93	0.00	0.00

**AN ORDINANCE REQUIRING A PUBLIC UTILITY TO POST BOND TO PAY FOR DAMAGES TO PUBLIC PROPERTY AND REQUIRING THEM TO NOTIFY THE CITY WHEN THEY ARE PRESENT TO WORK, WHERE THEY ARE WORKING, AND WHAT WORK THEY ARE PERFORMING**

With authority granted to it by **WV Code 8-12-5(46)**, the City states as follows:

The City finds it benefits the citizens of the City of Vienna for the City to not interfere with a public utility's desire and ability to repair, replace, install, and maintain electric, water, sewerage, natural gas, cable television and/or telephone distribution systems;

When repair, replacement, installation, and maintenance of the said distribution systems takes place, it is sometimes necessary for the City to reroute pedestrian or vehicle traffic. It is occasionally necessary for the City to use street cleaning equipment or road maintenance and repair equipment to clean or repair a city street, sidewalk or another pathway, after the public utility has completed its work; and

Occasionally public utilities undertake repair, replacement, installation, and/or maintenance projects within the City without notifying the City.

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From time to time, equipment necessary to the public utility blocks traffic, both pedestrian and vehicle, inconveniencing citizens and potentially delaying emergency services from effectively responding to calls for service.

If the public utility makes contact with the City, the City can work with the public utility to minimize their impact upon the public and the City's ability to provide health, sanitation, and emergency services;

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

- (a) Every public utility provider as defined herein shall execute a continuing bond in a form prescribed and accepted by the City Finance Director, with satisfactory corporate surety, in the penalty of \$10,000.00, payable to the City of Vienna.
- (b) This bond is conditioned such that the public utility, as defined herein, shall pay damages to any entity, including the City, due to any act or action done, performed or taken by such public utility in or about the conduct of its business.
- (c) This bond is also conditioned such that the public utility shall notify the City not less than five business days before beginning any repair, replacement, installation, and/or maintenance project within the corporate limits of the City of Vienna. Notice shall include notifying the City of:

1. the nature of the work,
2. the location of the work,
3. and the date and time the work is scheduled,
  - i. provided that, in the event of an emergency repair, the public utility shall notify the Office of the Mayor, the manager of the Vienna Utility Board, the Public Works Director or the Vienna Police Department, as soon as is reasonably possible, but no later than 24 hours after the commencement of any work, unless such work begins on a weekend or a holiday, and then the next immediate business day during regular business hours.

(d) Cable television, satellite television, telephone, and Internet Service Providers are hereby excepted from the notice requirement of this ordinance for the installation and/or repair of service equipment or lines, i.e. the installation, repair, or replacement of cable boxes, modems, routers, satellite dishes or receivers, and/or phones, internet or cable lines or wires, connected to a residence or business for purposes of providing service to a customer.

(e) For purposes of this section, "public utility" includes any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in any business, whether herein enumerated or not, which is, or shall hereafter be held to be, a public service including, but not limited to, electric, gas, water, sewerage, telephone (wireless or plain old telephone service), and cable television service providers, their contractors, sub-contractors or assigns.

(f) Failure to post bond may result in a \$100 fine per day for any public utility as defined above operating within the City without said bond. In addition to the fine, the City of Vienna Code Enforcement Office may issue a stop work order to any non-compliant entity and, should the entity fail to comply with the stop work order, may petition the Wood County Circuit Court to enjoin the entity from performing work or continuing work without said bond.

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Randall C. Rapp, Mayor

ATTEST:

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Melissa Elam, Recorder

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

**RESOLUTION APPROVING THE USE OF GOVDEALS.COM AS AN ONLINE AUCTION PLATFORM**

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF VIENNA, that it hereby approves govdeals.com as the City's online auction platform service for purposes of the selling, disposing, or conveying of City property and authorizes the Mayor and Finance Director to administer the same.

Further, the mayor, finance directory, their agents or assigns, are authorized to publish, as is required by WV Code 8-12-18(b), a class II legal notice, notifying the public of the location of the online auction sale and the list of items to be auctioned/sold.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Randall C. Rapp, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Elam, Recorder

**Resolution Authorizing for sale by Internet Auction of personal property (not real estate), including vehicles, police cruisers, and other property items**

As per West Virginia Code 8-12-18(b) and Vienna Municipal Code 107.05(c), the City of Vienna hereby offers for sale the following items:

**1. LIST AND DESCRIPTION OF ITEMS**

Further, for all police cruisers/vehicles, if sold to a duly authorized state, county, district, municipality, or federal agency employing one or more persons whose responsibility is the enforcement of the laws of any state, county, or municipality or their equivalent, may be sold with lights, sirens, radios, cages, or any other law enforcement related equipment attached to or installed in the vehicle; should any police cruiser/vehicle be sold to an individual or entity that is not a law enforcement agency as set out above, then said vehicle shall be sold **WITHOUT** any of the law enforcement related equipment as set out above. Any solicitation of a police cruiser/vehicle shall reflect the same. Any law enforcement agency may, at the request of the City, be required to provide proof that they are a law enforcement agency.

Further, the mayor, finance directory, their agents or assigns, are authorized to publish, as is required by WV Code 8-12-18(b), a class II legal notice, notifying the public of the location of the sale and the items to be auctioned/sold.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Randall C. Rapp, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Elam, Recorder



# MEMORANDUM

TO: JIM LEACH  
 FROM: Amy Roberts  
 SUBJECT: 20-21 GENERAL FUND BUDGET REVISION #2  
 DATE: 1/12/2021

DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
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Parks	540-58	Capital Outlay - Other	Reappropriating donations from Sam's Club for completion of Neal Cooke cemetery	55,000	5,000	60,000
FIRE	500-15	Maint. Bldgs & Grounds	Repair electrical at Spencer Park	10,000	3,750	13,750
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