

REGULAR COUNCIL SESSION
609 29th Street, Vienna, WV 26105
February 9, 2023
6:00 P.M.

INVOCATION AND PLEDGE OF ALLEGIANCE:

The Invocation was given by AG Harris. The Pledge of Allegiance was led by Councilman Chris Mancuso.

CALL TO ORDER:

The Vienna City Council met in Regular Session on February 9, 2023. Mayor Rapp called the meeting to order at 6:01pm.

ROLL CALL:

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

PUBLIC FORUM:

Brenda Powell (1409 31st Street): Spoke about the ordinance for having chickens. Would like the zones to be expanded beyond R1. Commented on fencing and would like clarification on specifications. She would also like to see the number allowed increased. Would like further details on health codes. Does not agree with misdemeanor charges for violations.

Henry Sasyn (1307 Greenmont Hills Dr.): Spoke about successful swimming in our area and the upcoming state meet. Parkersburg has a good shot at having the top two teams in the state.

James DeMoss (211 55th Street): Vienna resident for 12 years. Spoke about the ordinance for having chickens. Noted other cities in the state that allow more chickens. Questioned needing permits for the coops due to their square footage. Requested that the two limit be changed to 8 and removing the requirement for a permit to build a coop.

Tami Rhodes (4604 6th Ave.): Spoke about the ordinance for chickens. Would like it expanded beyond R1. Shared information from her conversation with an official in Charleston.

REPORT OF THE MINUTES:

The minutes of the Regular Council Session scheduled on 1/26/2023 have been printed, posted, and circulated. Approved as posted.

REPORT OF THE TREASURER:

Mayor Randy Rapp reported that the city is solvent, and all our bills are paid.

UNFINISHED BUSINESS:

1. None.

NEW BUSINESS:

1. **PRESENTATION: Freedom Festival Entertainment**

Jack Mathers said the Freedom Festival will be June 30 and July 1. Insured Sound will open on Friday night, Huey Mack will also perform, and the closer will be Tusk (Fleetwood Mac cover band). Sour Mash String Band will open on Saturday night, Sarah Allison Turner will also perform, and Drake Milligan will close on Saturday. The 249th Army Band may be back again also.

2. **ORDINANCE – FIRST READING: Creating Utility Restoration Details – Setting Out Utility Restoration Details For Sidewalk Replacement; Asphalt Overlay And Resurfacing Heel-In, Type E; Pavement Trench, Concrete Pavement; Type C Pavement Trench, Asphalt Concrete Pavement; Type A Pavement Trench, Asphalt Over Concrete Or Brick**

Sponsored by: Mayor Randy Rapp, Councilman Jim Leach, and Councilman Tom Azinger

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VIENNA THAT: Whereas the City of Vienna does not presently have specifications for the repair, replacement, or restoration of asphalt over concrete or brick, asphalt concrete pavement, concrete pavement, resurfacing heel-ins, and sidewalk replacement as it relates to roads, streets, or ditches that are to be repaired, restored, or replaced due to infrastructure and utility related projects, it hereby adopts the following:

913.04 – UTILITY RESTORATION DETAILS; SPECIFICATIONS AND REQUIREMENTS

A. INTENT

1. This ordinance intends to set out specifications and requirements for the repair, replacement, and restoration of asphalt over concrete or brick, asphalt concrete pavement, concrete pavement, resurfacing heel-ins, and sidewalk replacement as it relates to roads, streets, sidewalks, or drainage channels that need to be repaired, restored or replaced due to utility related infrastructure construction, repair, restoration, or replacement.

B. TYPE A PAVEMENT TRENCH – ASPHALT OVER CONCRETE PAVEMENT OR ASPHALT OVER BRICK PAVEMENT

1. Each concrete edge shall bear on twelve inches (12") minimum of undisturbed soil. If, during excavation of the trench, the removal of large rock results in a void within the twelve-inch (12") zone, the contractor shall fill the void with compacted backfill or compacted granular backfill (same as trench backfill specified).
2. All concrete must be a minimum of three thousand (3,000) psi, six (6) bag mix, and air entrained.
3. The asphalt-wearing course cap shall be installed when cold milling and full-width asphalt overlay are not to be provided. In areas where a full-width pavement overlay is specified, the contractor may, at their option, mill the existing pavement before trenching for the proposed sewer installation: provided that existing pavement protrusions (valve boxes, manholes, etc.) are provided with temporary asphalt around these protrusions to eliminate hazards to vehicles immediately following milling of the existing pavement. The asphalt-wearing course cap may be deleted if milling is performed before trenching. However, the asphalt-wearing course cap must be provided if the existing pavement is not milled before trenching. It shall be substituted with concrete during cold weather periods when hot mix asphalt is unavailable.
4. All areas where the pavement has been removed during construction shall be restored in accordance with these details within thirty (30) calendar days following the pavement removal unless otherwise approved by the city. If it is determined that such restoration is not feasible within this time frame, the contractor shall install a temporary, hard, drivable, and maintainable surface (asphalt or concrete), which will be subject to the approval of the City.

C. TYPE C PAVEMENT TRENCH – ASPHALT CONCRETE PAVEMENT (DRIVEWAYS AND PARKING LOTS)

1. Each edge of asphalt concrete shall bear on twelve inches (12") minimum of undisturbed soil. If, during the excavation of the trench, the removal of large rock results in a void within the twelve-inch (12") zone, the contractor shall fill the void with impacted backfill or compacted granular backfill (same as trench backfill specified).
2. All areas where the pavement has been removed during construction shall be restored per these specifications within thirty (30) calendar days following the pavement removal unless otherwise approved by the city. If it is determined that such restoration is not feasible within this time frame, the contractor shall install a temporary, hard, drivable, and maintainable surface (asphalt or concrete), subject to the city's approval.

D. TYPE E PAVEMENT TRENCH – CONCRETE PAVEMENT

1. Concrete pavement sections removed or impacted during excavation shall require the replacement of the entire length of the concrete slab from the edge of the road to the joint at the center of the roadway. No partial slabs of concrete are to remain.
2. Each concrete edge shall bear on twelve inches (12") minimum of undisturbed soil. If, during excavation of the trench, the removal of large rock results in a void within the twelve-inch (12") zone, the contractor shall fill the void with compacted backfill or compacted granular backfill (same as trench backfill specified).
3. All concrete must be at least three thousand (3,000) psi, six (6) bag mix, air-entrained.
4. Final pavement replacement saw cuts before pavement restoration shall be perpendicular to the sides of the drives.
5. All areas where the pavement has been removed during construction shall be restored per these specifications within thirty (30) calendar days following pavement removal unless otherwise approved by the city. If it is determined that such restoration is not feasible within this time frame, the contractor shall install a temporary, hard, drivable, and maintainable surface (asphalt or concrete) which shall be subject to the approval of the City.

E. COLD MILLING AND FULL-WIDTH ASPHALT OVERLAY

1. Overlay is to be placed utilizing a paving machine approved by the WV Department of Transportation (WVDOT).
2. If the existing pavement is striped, striping must be replaced per WVDOT requirements.
3. If cold milling of the concrete in the pavement restoration items is necessary, such concrete shall have cured at least twenty-eight (28) days before cold milling.
4. Milling shall be performed per the current edition of the **West Virginia Division of Highways Standard Specifications, Roads and Bridges**, Section 415. Hot mix asphalt wearing course shall

be per section 401. A tack coat shall be applied to the milled surface before placement of the overlay per item 408.

5. Asphalt wearing course overlay shall have one and one-half inch (1 ½") thickness.
6. Limits for pavement restoration with roadway shall be twenty (20) linear feet beyond the installation of any infrastructure.

F. SIDEWALK REPLACEMENT DETAILS

1. CONCRETE SIDEWALK

a. The following specifications shall be met:

1. Concrete – shall be three thousand five hundred (3,500) psi min., seven and one quarter (7 ¼) bag mix, air-entrained
2. WWF 6 x 6 / 10
3. Concrete shall be at least four (4") inches thick unless otherwise noted and six inches (6") thick where the walk crosses the driveway with a two-inch minimum thickness in either instance.
4. Tooled joints at four (4) feet o.c.
5. Expansion joints at twenty (20) feet o.c.
6. Four (4) inch aggregate base.

2. ASPHALT CONCRETE

a. The following minimum specifications shall be met:

1. Asphalt concrete shall be poured at a minimum of two inches (2") thick.
2. The base shall be a four (4") inch-thick aggregate base.
3. Minimum thicknesses are shown for concrete and asphalt sidewalks. If actual thicknesses are greater, the contractor shall match the existing sidewalk thickness.
4. For replacement of existing concrete removed during construction, if an existing control joint is located within two (2) feet of the edge of the disturbed area, the existing concrete shall be removed and replaced with the additional width to the existing control joint.

G. DIAGRAMS AND TECHNICAL DRAWINGS – Diagrams and technical drawings clarifying the above specifications are on file with the City of Vienna Public Works Department. They shall be consulted for clarification before any repair, restoration, or replacement work.

H. PENALTY – In addition to any civil remedy, including injunctive relief, civil damages, and the like, violation of this ordinance is a misdemeanor. It shall result in a fine through the Vienna Municipal Court of five hundred dollars (\$500) per day per incident.

Councilwoman Kim Williams moved to approve the Ordinance – First Reading Creating Utility Restoration Details – Setting Out Utility Restoration Details For Sidewalk Replacement; Asphalt Overlay And Resurfacing Heel-In, Type E; Pavement Trench, Concrete Pavement; Type C Pavement Trench, Asphalt Concrete Pavement; Type A Pavement Trench, Asphalt Over Concrete Or Brick. Motion seconded by Councilman Tom Azinger.

Councilman Chris Mancuso wanted to make sure F.1.a.3 doesn't get interpreted as concrete being able to be 2" thick. Craig Metz referenced "as the public works director indicates" gives him the ability to provide oversight.

Roll call vote taken by Recorder Melissa Elam. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting "yes". Vote: 5-0.

3. ORDINANCE – FIRST READING: Amending 923.01(A) "Public Utilities" Changing The Continuing Bond Amount From \$10,000 To \$50,000

Sponsored by: Mayor Randy Rapp, Councilman Jim Leach, and Councilman Tom Azinger

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VIENNA THAT IT AMENDS "923.01 PUBLIC UTILITY TO POST BOND TO PAY FOR DAMAGES TO PUBLIC PROPERTY; CITY NOTIFICATION REQUIRED" AS FOLLOWS:

(a) Every public utility provider shall execute a continuing bond in a form prescribed and accepted by the City Finance Director, with satisfactory corporate surety, in the amount of FIFTY THOUSAND DOLLARS (\$50,000.00), payable to the City of Vienna.

The remainder of the Ordinance remains unchanged.

Councilman Tom Azinger moved to approve the Ordinance – First Reading Amending 923.01(A) "Public Utilities" Changing The Continuing Bond Amount From \$10,000 To \$50,000. Motion seconded by Councilwoman Kim Williams.

No further discussion.

Roll call vote taken by Recorder Melissa Elam. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 5-0.

4. ORDINANCE – FIRST READING: Amending 505.06, “Keeping Livestock,” And Adding Regulations Related To Raising Hens On R-1, Single-Family Zoned Residential Property As Well As Related Structures, And The Penalty For Violating Said Regulations

Sponsored by: Recorder Melissa Elam and Mayor Randy Rapp

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VIENNA THAT it hereby amends the KEEPING LIVESTOCK ORDINANCE as follows:

505.06 KEEPING LIVESTOCK.

No person shall keep, raise, or maintain live hogs, rabbits, alpacas, horses, cattle, or other ruminants, sheep, goats, fowl, or flightless birds other than as set out elsewhere in this code in any manner whatsoever within the City.

Further, the City also enacts an Ordinance governing how hens may be raised on residential property as follows:

505.06a – HENS ON RESIDENTIAL PROPERTY

1. PERMIT

a) A building permit from the City of Vienna is required before placing any henhouse on any property.

2. LOCATION

a) Hens may be kept on R1, single-family, zoned properties only.

b) The parcel must have an occupied single-family residence on site.

c) This use shall be prohibited on any parcel that is unoccupied, vacant, or occupied by any multifamily unit or dwelling or any lot having more than one single-family dwelling or unit.

3. STRUCTURE AND LOCATION

a) Hens may only be kept with a henhouse and enclosed pen.

b) Henhouses are subject to accessory structure setback requirements.

c) Henhouses, lots, and related fences shall be subject to building code requirements and applicable rules and regulations, including limitations on fence height.

d) Hens and henhouses are not permitted in front yards.

e) Henhouses or pens shall be situated at least twenty-five (25) feet from any inhabited structure.

f) Henhouses, pens, or lots shall not create a nuisance due to noise, smoke, electrical interference, dust, or obnoxious odor.

g) No part of the henhouse shall exceed a height of six feet.

4. LIMITATIONS

a) Ownership, care, and control of the hens shall be the responsibility of a resident, the owner of the dwelling on the lot, or both.

b) A maximum of two (2) hens may be kept on a lot (although health regulations may further limit the number and/or manner of keeping of hens).

c) Keeping roosters is strictly prohibited.

d) Hens must be confined to a lot.

e) Roosters and other fowl species, other than chickens, are prohibited.

f) The flock shall be kept for personal use only.

g) Commercial raising of chickens or eggs is prohibited.

h) Any dead animals, or parts thereof, shall be promptly and properly disposed of in a legal fashion that does not create odors or spread to other properties via wind or stormwater runoff.

i) The flock shall always be confined to the parcel,

j) The flock shall be confined to a henhouse not exceeding 150 square feet in area during nighttime hours.

k) Stored feed shall be securely stored in a container that prevents access by vermin.

l) The flight feathers on at least one wing must be clipped regularly to prevent flight.

m) Any person owning or keeping, or harboring any hen which runs at large within the City shall be guilty of a misdemeanor.

n) Any other violation of this ordinance shall be a misdemeanor.

5. ENFORCEMENT

a) This Ordinance may be enforced by either the City of Vienna Code Enforcement Official or the Vienna Police Department.

6. PENALTY

a) Upon conviction, the fine for a violation of this section is

- i. seventy-five dollars (\$75.00) for the first offense,
- ii. one hundred dollars (\$100.00) for the second offense, and
- iii. one hundred twenty-five dollars (\$125.00) for every violation thereafter;
- iv. prior convictions may be used to enhance the penalty under this section if the date of the issuance of the previous citation or complaint is one year or less from the date of the current violation. If the date of the citation for the prior conviction is more than one year old, it is not available to enhance a subsequent offense.

Recorder Melissa Elam moved to approve the Ordinance – First Reading Amending 505.06, “Keeping Livestock,” And Adding Regulations Related To Raising Hens On R-1, Single-Family Zoned Residential Property As Well As Related Structures, And The Penalty For Violating Said Regulations. Motion seconded by Councilwoman Kim Williams.

Mayor Rapp said variations and allowances can be made when the permit is attained. He also said he wants to allow chickens but does not think larger numbers or other animals should be allowed in the city. He said starting small is a good idea and it can always be revisited as time goes on and amendments can be made.

Councilwoman Kim Williams would like to specify outdoor rabbits since some people keep them inside. She questioned why horses are mentioned since they are covered in another ordinance.

Recorder Melissa Elam asked why it was written to only include R1. Attorney Skogstad said it was because those are single family dwellings and typically have the green space needed.

Councilman Chris Mancuso made a motion to table the ordinance. Councilwoman Kim Williams seconded. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso voting “yes”. Recorder Melissa Elam and Mayor Randy Rapp voting “no”. Vote: 3-2.

Ordinance tabled.

5. BID APPROVAL: Demolition of 204 37th Street

Sealed bids for the demolition of 204 37th Street were opened on February 1, 2023 at 10:00 am with the following results:

Empire Builders	\$18,000.00
Jimmie Harper Construction	\$14,500.00

After careful review of the bid proposals, the recommendation for Council approval from the Budget & Finance Committee for the demolition of 204 37th Street is:

Jimmie Harper Construction	\$14,500.00
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Funding the project: Funding for this project will be from line item 01-725-40-30.

Councilman Tom Azinger moved to approve the Bid Approval for the Demolition of 204 37th Street. Motion seconded by Councilwoman Kim Williams.

No further discussion.

Roll call vote taken by Recorder Melissa Elam. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 5-0.

6. BID APPROVAL: Financing Of A 2022 F250 Truck For The Park Department

Sealed bids for the financing of a 2022 F250 Truck for the Park Department were opened on Tuesday, January 24, 2023, at 10:00 am with the following results:

	Rate	Total Cost
United Bank	3yr – 4.40%	\$49,969.80
Country Roads Leasing	3yr – 4.21%	\$50,653.48
Wesbanco	3yr – 5.35%	\$51,110.00

After careful review of the bid proposals, the recommendation for Council approval from the Budget & Finance Committee for the financing of a 2022 F250 Truck is:

United Bank

3yr – 4.40%

\$49,969.80

Funding the project: Funding for this project is budgeted in the City’s General Fund 01-540-40-19.

Councilwoman Kim Williams moved to approve the Financing Of A 2022 F250 Truck For The Park Department. Motion seconded by Councilman Tom Azinger.

No further discussion.

Roll call vote taken by Recorder Melissa Elam. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 5-0.

7. BID APPROVAL: 2 - F450 Or Equal Trucks For The Street And Parks Department

Sealed bids for the purchase of 2-F450 or Equal Truck for the Street and Parks Department were opened on January 20, 2023, at 9:00 am with the following results:

Matheny Motors \$99,578.00 (each)

After careful review of the bid proposals, the recommendation for Council approval from the Budget & Finance Committee for the purchase of 2 - F450 trucks is:

Matheny Motors \$99,578.00 (each)

Funding the project: Funding for these vehicles is pending financing. The payments for the trucks are budgeted in accounts 01-570-59 and in 01-540-19 (this truck was bid in prior year but never came in so this is a rebid for parks).

Recorder Melissa Elam moved to approve 2 - F450 Or Equal Trucks For The Street And Parks Department. Motion seconded by Councilwoman Kim Williams.

No further discussion.

Roll call vote taken by Recorder Melissa Elam. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 5-0.

8. GENERAL FUND BUDGET REVISION #3

MEMORANDUM						
TO: JIM LEACH						
FROM: Amy Roberts						
SUBJECT: 22-23 GENERAL FUND BUDGET REVISION #3						
DATE: 2/2/2023						
DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
	322	CONTRIB FROM OTHER FUNDS(CAP RESERVE)	APPROPRIATE MONEY FROM CAP RESERVE FOR THE PROJECT BELOW	644,182	117,300	761,482
			NET INCREASE / (DECREASE) TO REVENUE		117,300	
Pool	542-58	CAPITAL OUTLAY - OTHER	ADDITIONAL MONIES FOR PHASE II ENGINEERIN	303,200	117,300	420,500
CONTINGENCIES	699		COVER THE ABOVE REVISIONS			
			NET INCREASE / (DECREASE) TO EXPENDITURES		117,300	

Recorder Melissa Elam moved to approve General Fund Budget Revision #3. Motion seconded by Councilwoman Kim Williams.

Councilman Chris Mancuso asked for the total for engineering and design to Omni. Recorder Elam responded \$419,800 and that that is the final amount and there will be nothing additional.

Roll call vote taken by Recorder Melissa Elam. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 5-0.

9. INTERNAL BUDGET REVISION #2

INTERNAL BUDGET REVISION FORM
 CITY OF VIENNA STATE APPROVAL NOT REQUIRED
 FUND: GENERAL REVISION WITHIN SAME ACCOUNT CATEGORY
 FISCAL YR: 22-23
 REV NO: 2
 DATE: 2/2/2023

DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	BUDGET BEFORE CHANGE	EXPEN-DITURE CHG AMT	BUDGET AFTER CHANGE
FIRE DEPT	500-21	TRAINING & EDUCATION	MOVE FUNDS FROM TRAINING TO PAY FOR ADDITIONAL	14,000	-5,000	9,000
	500-17	MAINT AUTOS	APPARATUS REPAIRS.	18,000	5,000	23,000
PARKS	540-14	TRAVEL	INCREASED MAINTENANCE DUE TO UNFORSEEN REPAIRS	1,500	-1,500	0
	540-15	BLDGS AND GROUNDS	AND INCREASED PRICING	78,400	-5,000	73,400
	540-21	TRAINING & EDUCATION		1,500	-1,500	0
	540-41	MATERIALS & SUPPLIES		55,000	-2,000	53,000
	540-16	MAINT EQUIPMENT		10,000	10,000	20,000
POLICE	455-07	PENSION	APPROPRIATE MONEY IN THIS LINE ITEM. REQUEST WAS	430,000	-23,900	406,100
	455-33	INVESTIGATIVE EXPENSE	LEFT OUT OF THE BUDGET IN ERROR.	0	23,900	23,900
TOTALS				608,400	0	608,400

Councilman Tom Azinger moved to approve Internal Budget Revision #2. Motion seconded by Councilman Chris Mancuso.

Councilwoman Kim Williams is concerned about taking funds from pension to cover the investigative expense. She would like to know what the police fees are going towards.

At 7:20pm, Mayor Rapp asked for a 5-minute recess to call the Finance Director to get clarification.

At 7:24pm, Mayor Rapp returned. Attorney Skogstad explained that we budgeted more for pension than was needed so the pension amount is excess funds. Nothing is coming out of the actual pension fund.

Roll call vote taken by Recorder Melissa Elam. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Chris Mancuso, Recorder Melissa Elam, and Mayor Randy Rapp voting “yes”. Vote: 5-0.

10. UPDATE: Jackson Pool

Recorder Melissa Elam reported that the meeting with Omni and the design team has not taken place yet but should be soon.

COUNCIL COMMENTS:

Councilman Chris Mancuso would like to see Council be more proactive. He would like to have information and get it out to the public about the Hope Gas line replacement project. He wanted an update on Pond Run dredging. He would also like to know how we are going to pay for the pool project. He feels strongly about the city having a comprehensive plan and wants to make sure it has a positive impact on Vienna. Other things he wants to address are: the open IT Director position, cameras in parks, Spencer’s Landing, and Johns Manville remediation.

Councilwoman Kim Williams referenced several cities in West Virginia that use Roberts Rules for parliamentary procedure. She disagrees that Roberts Rules wouldn’t work in Vienna.

Mayor Randy Rapp said if Council chooses to use Roberts Rules he will follow them. He said every camera in the city is operational. The two IT employees are efficient and doing a great job. The Utility Board is still waiting on grants for the dredging.

Recorder Melissa Elam spoke about the Park Board meeting from the previous day. The Park Director's trailer will be moved after Segra has relocated the wireless network box. The trailer will be moved to the back of Jackson Park. Dirt will begin to be moved for new ballfields once it is all cleared.

Meeting adjourned at 7:38pm.

Melissa Elam, Recorder

Randall C. Rapp, Mayor

APPROVED: _____
 Initials Date