

**REGULAR COUNCIL SESSION**  
**609 29<sup>th</sup> Street, Vienna, WV 26105**  
**June 8, 2023**  
**6:00 P.M.**

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

The Invocation was given by Mayor Randy Rapp. The Pledge of Allegiance was led by Councilwoman Kim Williams.

**CALL TO ORDER:**

The Vienna City Council met in Regular Session on June 8, 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, Roger Bibbee (via phone), City Attorney Russell Skogstad, and Mayor Randy Rapp. Absent: Jim Leach, Chris Mancuso, and Recorder Melissa Elam.

**PUBLIC FORUM:**

**None.**

**REPORT OF THE MINUTES:**

The minutes of the Regular Council Session scheduled on 5/25/2023 have been printed, posted, and circulated. Approved as posted.

**REPORT OF THE TREASURER:**

Mayor Rapp gave the Treasurer's Report. The city is financially sound.

**UNFINISHED BUSINESS:**

- 1. ORDINANCE – SECOND READING: Amending 1145.01, Definitions, 1145.05 Authority To Take Possession Of Abandoned Vehicle, And 1145.10, Junk On Private Property Of The Vienna Municipal Code Changing The Definition Of Junk Motor Vehicles And Requirements For Property Owners To Cover Or House Junk Motor Vehicles On Personal Or Private Property**

**(Sponsored by: Mayor Randy Rapp and Councilman Tom Azinger)**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VIENNA THAT Vienna Municipal Code 1145.01, 1145.05, and 1145.10 are amended as follows:

1145.01 DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(g) "Junk Motor Vehicle" means a motor vehicle, or any part thereof, other than an on-premises farm utilities vehicle, which:

- (1) Is discarded, wrecked, ruined, scrapped or dismantled, or
- (2) Cannot pass the state inspection required by West Virginia Code 17C-16-1 et seq., fails to display a state inspection sticker, or displays a state inspection sticker which has been expired for more than sixty days, or
- (3) Fails to display a valid registration plate, or
- (4) Is either not serving a functional purpose or use, or is not in an enclosed building, a licensed salvage yard, or in actual possession of a demolisher.

(H) "Car Cover" - is any product that is specifically designed to provide coverage of the entirety of a vehicle from and including the roof of the vehicle to the ground. Said cover shall be kept in good repair, free from holes, rips or tears. A car cover expressly does not include a tarp or any other product not specifically designed for car coverage.

1145.05 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES; ENFORCEMENT; NOTIFICATION TO OWNER.

Any enforcement agency which has knowledge of, or discovers, or finds, any abandoned motor vehicle, any junk motor vehicle, old vehicle tire or inoperative or abandoned household appliance on either public or private property may take the same into its custody and possession. For that purpose, the enforcement agency shall employ its own personnel, equipment and facility or hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles, junk motor vehicles, old vehicle tires, or inoperative or abandoned household appliances. Before taking any abandoned motor vehicle or junk motor vehicle into custody and possession from private property, the enforcement agency shall give the private property owner and the owner of such motor vehicle, if ascertainable, ten days notice by registered or certified mail, that such action shall be taken unless such motor vehicle is restored to a functional use.

#### 1145.10 JUNK ON PRIVATE PROPERTY WITH PERMISSION OF OWNER.

(a) It is hereby declared to be a nuisance and no person shall store or allow to be stored, to accumulate or to exist on any real property within the City any junk, junk motor vehicle as defined in 1145.01(g), automobile bodies, automobile parts and other debris.

(b) In addition to the penalty provided below, the City, in order to abate such nuisance, shall have the power and authority to order the removal of such nuisance by giving the owner of the property, or the person in lawful possession thereof, ten days' notice and in the event such nuisance is not abated within ten days, the City shall have such right to abate such nuisance and remove any junk, junk motor vehicle as defined in 1145.01(g), automobile bodies, automobile parts or other debris and charge the expense thereof against such property, and the expense of removing and abating such nuisance shall constitute a lien against such property.

(C) Any owner of a vehicle or the owner of any public or private property that allows a junk vehicle as defined in 1145.01(g) to be placed upon it shall, unless the owner is actively and presently servicing or repairing said vehicle, keep the vehicle under a car cover.

(D) Any vehicle that has been removed and impounded under the authority of this article shall be disposed of as provided under West Virginia Code 17-24A-1 et seq.

**Councilwoman Kim Williams moved to approve the Ordinance – Second Reading Amending 1145.01, Definitions, 1145.05 Authority To Take Possession Of Abandoned Vehicle, And 1145.10, Junk On Private Property Of The Vienna Municipal Code Changing The Definition Of Junk Motor Vehicles And Requirements For Property Owners To Cover Or House Junk Motor Vehicles On Personal Or Private Property. Motion seconded by Councilman Tom Azinger.**

No further discussion.

**Roll call vote taken by Mayor Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Roger Bibbee, Mayor Randy Rapp, voting “yes”. Vote: 4-0.**

#### **NEW BUSINESS:**

- 1. RESOLUTION: Approving The Final Settlement Agreements In The Ongoing Opioid Litigation With Amneal And Mylan Pharmaceuticals Inc.  
(Sponsored by: Mayor Randy Rapp and Councilman Jim Leach)**

**Be it resolved by the Common Council of the City of Vienna, upon recommendation of its Opioid Litigation Counsel, that it hereby accepts and adopts the FINAL SETTLEMENT AGREEMENTS, attached hereto and incorporated by reference herein, as part of the City’s ongoing opioid litigation with **AMNEAL and MYLAN PHARMACEUTICALS INC.** Council further authorizes the mayor, his agents, or designees, to take any steps as are reasonable to adopt these two settlement agreements, including the execution of any and all documents to facilitate the same.**

**Councilwoman Kim Williams moved to approve the Resolution Approving The Final Settlement Agreements In The Ongoing Opioid Litigation With Amneal And Mylan Pharmaceuticals Inc. Motion seconded by Councilman Tom Azinger.**

No further discussion.

**Roll call vote taken by Mayor Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Roger Bibbee, Mayor Randy Rapp, voting “yes”. Vote: 4-0.**

- 2. BID APPROVAL – Financing for 2 – 2023 Dodge Durango’s w/ Equipment**

Sealed bids for the financing of 2 – 2023 Dodge Durango’s with equipment for the Police Department were opened on June 1, 2023, at 10:00am with the following results:

	Rate	Total Cost
United Bank	3 yr – 4.70%	\$137,842.56
	4 yr – 4.90%	\$141,580.32
Country Roads Leasing (includes fees)	3 yr – 4.67%	\$138,817.40
	4 yr – 4.67%	\$141,989.12

After careful review of the bid proposals, the recommendation for Council approval from the Budget and Finance Committee for the financing of 2 – 2023 Dodge Durango’s with equipment is:

United Bank	3 yr – 4.70%	\$137,842.56
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Funding the project: Funding for this project is budgeted in the City’s General Fund 01-455-59.

**Councilwoman Kim Williams moved to approve the Bid Approval for Financing for 2 – 2023 Dodge Durango’s w/ Equipment. Motion seconded by Councilman Tom Azinger.**

No further discussion.

**Roll call vote taken by Mayor Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Roger Bibbee, Mayor Randy Rapp, voting “yes”. Vote: 4-0.**

### **3. BID APPROVAL – Level II and Level IIIA Body Armor / Vest Carriers**

Sealed bids for the purchase of Level II and Level IIIA Body Armor / Vest Carriers for the Police Department were opened on May 18, 2023, at 10:00am with the following results:

Vance Outdoor Equipment	\$21,975.00
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After careful review of the bid proposals, the recommendation for Council approval from the Budget and Finance Committee for the purchase of Level II and Level IIIA Body Armor / Vest Carriers is:

Vance Outdoor Equipment	\$21,975.00
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Funding the project: Funding for this project is budgeted in the City’s General Fund 01-455-59. These are a 2023-2024 Budgeted item and will not be bought until the new budget year and will likely require a budget revision.

**Councilwoman Kim Williams moved to approve the Bid Approval for Purchase of Level II and Level IIIA Body Armor / Vest Carriers. Motion seconded by Councilman Tom Azinger.**

No further discussion.

**Roll call vote taken by Mayor Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Roger Bibbee, Mayor Randy Rapp, voting “yes”. Vote: 4-0.**

### **4. INTERNAL BUDGET REVISION #5**

# INTERNAL BUDGET REVISION FORM

CITY OF VIENNA  
 FUND: GENERAL  
 FISCAL YR: 22-23  
 REV NO: 5  
 DATE: 06/01/2023

STATE APPROVAL NOT REQUIRED  
 REVISION WITHIN SAME ACCOUNT CATEGORY

DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	BUDGET BEFORE CHANGE	EXPEN-DITURE CHG AMT	BUDGET AFTER CHANGE
Mayor	409-26	Insurance	Move money to cover Comp time payout and additional FICA tax money and retirement	15,000	-1,200	13,800
	409-03	Salary		30,514	825	31,339
	409-04	FICA		6,550	75	6,625
	409-06	Retirement		8,555	300	8,855
Personnel	422-21	Training & Education	Move money to cover shortfall	1,200	-390	810
	422-06	Retirement		5,260	390	5,650
Building Insp	436-23	Professional Service	Move to money to cover shortfall and for the sell back of sick time	4,500	-3,805	895
	436-03	Salaries		129,321	2,915	132,236
	436-06	Retirement		8,885	690	9,575
Data Proc/IT	439-03	Salaries	Move money to cover Unemployment expenses and shortfall due to health insurance plan change	93,292	-14,550	78,742
	439-21	Training & Education		6,500	-4,060	2,440
	439-26	Insurance		23,760	14,550	38,310
	439-05	Group Insurance		3,100	4,060	7,160
Police Dept	455-21	Training & Education	Move money to cover increased investigation expense	13,000	-2,000	11,000
	455-23	Professional Service		13,000	-2,000	11,000
	455-41	Materials & Supplies		15,000	-3,000	12,000
	455-33	Investigation Expense		23,900	7,000	30,900
	455-45	Uniforms	Move money to cover increased building maintenance costs	25,600	-4,500	21,100
	455-15	Maint - Buildings		14,800	4,500	19,300
	455-07	Pension costs	Move money to cover increase retirement costs	406,100	-2,200	403,900
455-06	Retirement	21,400		2,200	23,600	
Parks	540-26	Insurance	Move money to cover shortfall	141,000	-5,425	135,575
		Group Insurance		40,000	5,425	45,425
	540-19	Rents	Move money to cover shortfall	91,580	-9,400	82,180
	540-13	Utilities		61,000	5,400	66,400
	540-17	Maintenance - Vehicles		8,500	2,000	10,500
	540-43	Auto Supplies		14,000	2,000	16,000
	540-30	Contract Service	Move money to cover concrete projects in the Park	25,000	-25,000	0
	540-58	Capital Outlay Other		145,500	25,000	170,500
Recreation	541-03	Salaries	Move money to cover the Darrel Dotson Arch	49,360	-12,000	37,360
	541-58	Capital Outlay - Other		21,000	12,000	33,000
	541-41	Materials & Supplies	Move money to cover costs of moving the Park Trailer	85,000	-10,000	75,000
541-15	Maint - bldgs and grounds	35,000		10,000	45,000	
Code Enf	725-20	Legal Publications	Move money to cover increased cost	400	-400	0
	725-06	Retirement		5,405	400	5,805
	725-43	Auto Supplies		1,100	-100	1,000
	725-41	Materials & Supplies		400	100	500
Sr Center	905-43	Auto Supplies	Move money to cover increased cost	1,500	-365	1,135
	905-06	Retirement		4,765	365	5,130
TOTALS				1,599,747	0	1,599,747

Mayor Rapp stated that this is the final budget revision for the current budget.

**Councilwoman Kim Williams moved to approve the Internal Budget Revision #5. Motion seconded by Councilman Tom Azinger.**

No further discussion.

**Roll call vote taken by Mayor Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Roger Bibbee, Mayor Randy Rapp, voting "yes". Vote: 4-0.**

## 5. 2022-2023 General Fund Budget Revision #5

**MEMORANDUM**

TO: JIM LEACH  
 FROM: Amy Roberts  
 SUBJECT: 22-23 GENERAL FUND BUDGET REVISION #5  
 DATE: 05/25/2023

DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
Unencumbered Fund Balance	299	Unencumbered Fund Balance	Carryover	474,595	1,823,083	2,297,678
Private Contributions	328-540	Private Contributions-Park	Spartan Foundation Playground Equipment	0	40,000	40,000
			NET INCREASE / (DECREASE) TO REVENUE		1,863,083	
Transfers to other funds	444-68	Transfer to Capital Reserve	Transfer Carryover to Capital Reserve	0	1,673,083	1,673,083
Streets	570-58	Capital Outlay - Other	City Portion of the Streetscape Project	885,000	150,000	1,035,000
Park	540-58	Capital Outlay - Other	Playground Equipment partially funded by the above contribution from the Spartan Foundation	145,000	40,000	185,000
CONTINGENCIES	699		COVER THE ABOVE REVISIONS			
			NET INCREASE / (DECREASE) TO EXPENDITURES		1,863,083	

**Councilwoman Kim Williams moved to approve the 2022-2023 General Fund Budget Revision #5. Motion seconded by Councilman Tom Azinger.**

No further discussion.

**Roll call vote taken by Mayor Rapp. Councilwoman Kim Williams, Councilman Tom Azinger, Councilman Roger Bibbee, Mayor Randy Rapp, voting "yes". Vote: 4-0.**

**COUNCIL COMMENTS:**

Councilwoman Kim Williams asked if the next council meeting is scheduled for June 22. Mayor responded it is.

Councilman Tom Azinger suggested increasing VPD salary by \$12,000; new employees receive a \$6,000 increase with \$1,000 raises monthly.

The Vienna Volunteer Fire Department Ice Cream Social is tomorrow evening, June 9, 2023 beginning at 6:00pm. Please try to attend this annual event.

**Meeting adjourned at 6:27pm.**

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Submitted by Teresa Smith

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Randall C. Rapp, Mayor

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