

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

INVOCATION AND PLEDGE OF ALLEGIANCE:

The Invocation was given by Rod Smith. The Pledge of Allegiance was led by Boy Scout Troop 74.

CALL TO ORDER:

The Vienna City Council met in Regular Session on March 9, 2023. Mayor Rapp called the meeting to order at 6:00pm.

ROLL CALL:

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

PUBLIC FORUM:

Brenda Powell (1409 31st Street): Brenda stated she appreciates that Ordinance 505.06 has come before council for approval.

James DeMoss (211 55th St.): He is glad council will allow chickens and hopes that in the future we increase the number of hens allowed.

David Muller (806 48th Street): David voiced concerns about rezoning the property at 5708 Grand Central Avenue to commercial. He asked that if rezoned, there are restrictions that prohibit any business that requires an age of 18 or 21 to enter.

Melanie Lockhart (307 41st Street): Showed a video of the alley between 301, 303, and 307 41st Street and 4106 3rd Avenue.

Robert Lockhart (307 41st Street): Distributed a packet regarding the above alley at 3rd avenue. Russ responded that Mr. Lockhart's comments are citing county ordinances. We follow municipal ordinances/codes.

REPORT OF THE MINUTES:

The minutes of the Regular Council Session scheduled on 2/23/2023 and Special Council Session scheduled on 3/2/2023 have been printed, posted, and circulated. Approved as posted.

REPORT OF THE TREASURER:

Councilman Leach stated the city is financially sound.

UNFINISHED BUSINESS:

- 1. ORDINANCE – SECOND READING: Amending 505.06, "Keeping Livestock," And Adding Regulations Related To Raising Hens On R-1, R-2, And R-3, 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, outdoor rabbits, alpacas, 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) An annual five (\$5) dollar permit is required before placing any henhouse on any property. The permit shall begin on July 1st of each year and end on June 30th of the following year. an inspection of henhouses shall be made prior to the issuance of a permit.

2. LOCATION

- a) Hens may be kept on R1, R2, and R3 zoned properties occupied by single-family residences 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 (20) feet from a neighbors inhabited structure and ten (10) feet from any inhabited structure on the owners property.
- 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 eight (8) 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 four (4) hens may be kept on a lot (although health regulations may further limit the number and/or manner of keeping hens).
- c) Keeping roosters is strictly prohibited.
- d) Roosters and other fowl species, other than chickens, are prohibited.
- e) The flock shall be kept for personal use only.
- f) Commercial raising of chickens or eggs is prohibited.
- g) 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 storm-water runoff.
- h) The flock shall always be confined to the parcel,
- i) The flock shall be confined to a henhouse not exceeding 150 square feet in area during nighttime hours.
- j) Stored feed shall be securely stored in a container that prevents access by vermin.
- k) The flight feathers on at least one wing must be clipped regularly to prevent flight.
- l) Any person owning or keeping or harboring any hen which runs at large within the City shall be guilty of a misdemeanor.
- m) 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. VARIANCES

- a) Variances may be granted by Code Enforcement as to structures

7. 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.

Councilman Jim Leach moved to approve the Ordinance – Second Reading Amending 505.06, “Keeping Livestock,” And Adding Regulations Related To Raising Hens On R-1, R-2, And R-3, Single-Family Zoned Residential Property As Well As Related Structures, And The Penalty For Violating Said Regulations. Motion seconded by Councilwoman Kim Williams

No further discussion.

Roll call vote taken by Mayor Rapp. Councilwoman Kim Williams, Councilman Jim Leach, Mayor Randy Rapp, and Recorder Melissa Elam voting “yes”. Councilman Tom Azinger and Councilman Roger Bibbee voting “no”. Vote: 4-2.

NEW BUSINESS:

1. RESOLUTION: APPROVING THE APPOINTMENT OF MELVIN TURNER TO THE PLANNING COMMISSION

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF VIENNA, that Melvin Turner, qualified by knowledge and experience in matters pertaining to the development of the City, shall be appointed to serve the remainder of the term of the City of Vienna Planning Commission previously held by the late Craig Richards. Term expires 02/2024.

Councilman Roger Bibbee moved to approve the Resolution: Approving The Appointment Of Melvin Turner To The Planning Commission. Motion seconded by Councilman Tom Azinger.

No further discussion.

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

2. BID APPROVAL: Spring Planting and Fall Cleanup

Sealed bids for the flower planting and maintenance and fall cleanup of the various areas of the city were opened on February 28, 2023 at 10:00am with the following results:

Scots Landscaping \$25,298.00

After careful review of the bid proposals, the recommendation for Council approval from the Budget & Finance Committee for the flower planting and maintenance and fall cleanup is:

Scots Landscaping \$25,298.00

Funding the project: Funding for this project will be from the City's General Fund line item 01-579-55-41, pending Council approval. Amount of a funding request will be for the entire project.

Councilman Roger Bibbee moved to approve the Bid for Spring Planting and Fall Cleanup. Motion seconded by Councilman Jim Leach.

No further discussion.

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

3. BID APPROVAL: Financing of 2 - 2023 F450 Trucks (Park and Street Dept)

Sealed bids for the financing of 2 - 2023 F450 Trucks for the Street and Parks Department were opened on February 21, 2023, at 10:00 am with the following results:

	Rate	Total Cost
United Bank	3yr – 4.80%	\$214,236.72

After careful review of the bid proposals, the recommendation for Council approval from the Budget & Finance Committee for the financing of 2 - 2023 F450 Truck is:

United Bank	3yr – 4.80%	\$214,236.72
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Funding the project: Funding for this project is budgeted in the City's General Fund 01- 540-40-19 and 01-570-59

Councilwoman Kim Williams moved to approve the Bid for Financing of 2 - 2023 F450 Trucks (Park and Street Dept). Motion seconded by Councilman Tom Azinger.

No further discussion.

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

4. BID APPROVAL: Purchase of a Hino XL8 Truck w/equipment

Sealed bids for the purchase of a Hino XL8 Truck and equipment were opened on February 13, 2023, at 9:00 am with the following results:

Matheny Motors \$160,893.00

After careful review of the bid proposals, the recommendation for Council approval from the Budget & Finance Committee for the purchase of a Hino XL8 truck is:

Matheny Motors \$160.893.00

Funding the project: Funding this truck is pending financing. The payment for the truck is budgeted in accounts 01-570-59.

Councilman Tom Azinger moved to approve the Bid for Purchase of a Hino XL8 Truck w/equipment. Motion seconded by Councilman Jim Leach.

Councilman Roger Bibbee asked what equipment would come with it. Councilman Jim Leach said a plow and salt dispenser come with the truck.

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

5. INTERNAL BUDGET REVISION #3

INTERNAL BUDGET REVISION FORM						
CITY OF VIENNA			STATE APPROVAL NOT REQUIRED			
FUND: GENERAL			REVISION WITHIN SAME ACCOUNT CATEGORY			
FISCAL YR: 22-23						
REV NO: 3						
DATE: 03/02/2023						
DEPT	ACCT #	ACCT DESCRIPTION	EXPLANATION	BUDGET BEFORE CHANGE	EXPEN-DITURE CHG AMT	BUDGET AFTER CHANGE
VRIA	541-03 541-68	Salaries Contributions	Move money to Contribution To VRIA for the running of Spring Sports	85,860 0	-23,000 23,000	62,860 23,000
TOTALS				85,860	0	85,860

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

No further discussion.

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

6. 2023-2024 BUDGET DISCUSSION AND VOTE ON AMENDMENTS

Councilwoman Kim Williams asked to include the pool and renovations in the budget. Councilman Jim Leach disagreed, saying that if we put an amount in the budget as to what we are going to spend on this pool in advance of when the contractors bid on it, that is a disadvantage to us. Council has had discussions about funding, distribution, capital reserves and what we may be able to get grants for. Councilwoman

Williams stated we have a proposal for probable costs. This information is readily available. Mayor Rapp stated that he met with a funding institution that is interested in doing the project for the city. It will require a bond. The bond process will take almost the exact amount of time as conventional financing, so time frame will not be an issue. There is a 20% discount on the funding rate, so it is to our advantage to use the bonding process. Mayor Rapp agrees with Councilman Leach about not “tipping your hand.” He cited a recent large bid opening for the city. Engineers estimated the project coming in at \$517,000 and low bid was almost \$200,000 lower than expected. By holding those numbers, he believes we will get a better estimate of the actual numbers to build this. Councilwoman Williams disagreed.

Mayor Rapp said council will have to decide how comfortable they are with taking money out of Capital Reserves and the other funds we have to invest in a project we last did in 1965. Recorder Melissa Elam said she feels it is too premature to move monies around right now. It is a budget revision that can be done when we know exactly how much we want to move. Mayor Rapp stated the financial institution he spoke with this week agrees that there is no value setting money aside for this project. Council can vote next week on some sort of amendment.

COUNCIL COMMENTS:

Mayor Rapp read the following message from Recorder Elam on the pool update:

Omni has received 90% of Martin Aquatics portion of the project. The depth of the equipment room is going to be deeper than it is currently and so double doors on the ground level are not a good solution for maneuvering pumps, etc. They are designing a hoist into the equipment room. They are waiting on confirmation of state highway right of ways for the property along Park Drive. Meeting with the Design Team on Friday.

Mayor Rapp announced that Vienna was successful in getting the 12th Street bridge, the 17th Street bridge, and the 27th Street bridge funding from the Governor’s Bridge Program at no cost to the city. The only thing we have to do is reroute traffic while they are working on the bridges. This is a three million dollar savings to the City of Vienna.

Mayor Rapp said the property at 5708 Grand Central Avenue will be on the next regular council agenda.

Meeting adjourned at 7:01pm.

Minutes taken and submitted by Teresa Smith.

Melissa Elam, Recorder

Randall C. Rapp, Mayor

APPROVED: _____
 Initials Date