

**CITY OF VIENNA
CITY COUNCIL MEETING
VIENNA CITY HALL**

**July 5, 2017
6:30 P.M.**

AGENDA

1. Mayor Calls Meeting to Order.

2. Roll Call:

Hill_____ Riddle_____ Myrick_____ Owen_____ Racey_____ Tuey_____

3. Omnibus Consent Agenda

- Approval of the June 21, 2017 City Council Meeting Minutes
- Approval of the Warrant
- Approval of Treasurer's Report

Motion_____ **Seconded**_____

Hill_____ Riddle_____ Myrick_____ Owen_____ Racey_____ Tuey_____

PUBLIC COMMENT/ADDITION TO THE AGENDA

NEW BUSINESS

4. Approval of Resolution No.17-10, A Resolution relating to Participation by Elected Officials in the Illinois Municipal Retirement Fund

Motion_____ **Seconded**_____

Hill_____ Riddle_____ Myrick_____ Owen_____ Racey_____ Tuey_____

5. Approval and Authorization of Funds to repair to Ball Park Mower-cub cadet.
(Wheel Motor Assembly) Estimated cost- \$1,000.00- F.B. McAfoos.

Motion_____ **Seconded**_____

Hill_____ Riddle_____ Myrick_____ Owen_____ Racey_____ Tuey_____

6. Authorization and Approval of Ordinance No. 17-06 , An Ordinance Concerning Towing And Impounding Vehicles Involved In Crimes Within The Corporate Limits Of The City Of Vienna, IL.

Motion_____ **Seconded**_____

Hill_____ Riddle _____ Myrick_____ Owen_____ Racey_____ Tuey_____

7. Authorization and Approval of estimate for bathroom upgrades/repairs at City Park (Discussion with Supt Racey on estimate)

Motion_____ **Seconded**_____

Hill_____ Riddle _____ Myrick_____ Owen_____ Racey_____ Tuey_____

8. City Elected and Appointed Officials:

- Jon Simmons, Mayor
- Aleatha Wright, City Clerk- Appropriation/Taxy Levy Ord.
- Josh Stratemeyer, City Attorney
- Shane Racey, City Superintendent
- Brent Williams, Fire Chief
- Jim Miller, Chief of Police
- City Council
- Phil Morris, Depot
- Margaret Mathis, City Librarian

9. **Executive Session:** Employment- 5ILCS 120/02(c)(1), Collective Bargaining Negotiations between the City of Vienna and Local Union 50 as per 5ILCS 120/02(c)(2), and the Review of closed session minutes including the semi-annual review of closed session minutes pursuant to 2.06 of the Open Meetings Act as per 5 ILCS 120/02(c)(21). Executive Minutes from (12-21-16, 01-04-17, 02-01-17, 02-15- 17, 03-01-17, 03-15-17, 04-19-17, 05-03-17).

Out of Regular Session into Executive Session

Motion_____ **Seconded**_____

Hill_____ Riddle _____ Myrick_____ Owen_____ Racey_____ Tuey_____

Out of Executive Session into Regular Session

Motion_____ **Seconded**_____

Hill_____ Riddle _____ Myrick_____ Owen_____ Racey_____ Tuey_____

10. Authorization and Approval of content of semi-annual review of closed session minutes (12-21-16, 01-04-17, 02-01-17, 02-15-17, 03-01-17, 03-15-17, 04-19-17, 05-03-17).

Motion_____ **Seconded**_____

Hill_____ Riddle _____ Myrick_____ Owen_____ Racey_____ Tuey_____

11. **Adjournment:**

Motion_____ **Seconded**_____

Hill_____ Riddle _____ Myrick_____ Owen_____ Racey_____ Tuey_____

POSTED: 6-30-17

BY: *Sh Wright*



A RESOLUTION RELATING TO PARTICIPATION BY ELECTED OFFICIALS IN THE ILLINOIS MUNICIPAL RETIREMENT FUND

IMRF Form 6.64 (Rev. 03/17) (Income tax information can be found on the reverse side of this resolution)

PLEASE ENTER Employer IMRF I.D. Number

RESOLUTION
Number 17-10

WHEREAS, the _____
EMPLOYER NAME

is a participant in the Illinois Municipal Retirement Fund; and

WHEREAS, elected officials may participate in the Illinois Municipal Retirement Fund if they are in positions
normally requiring performance of duty for 600 hours or more per year; and
600 OR 1,000

WHEREAS, this governing body can determine what the normal annual hourly requirements of its elected officials
are, and should make such determination for the guidance and direction of the Board of Trustees of the Illinois Municipal
Retirement Fund;*

NOW THEREFORE BE IT RESOLVED that the _____
BOARD, COUNCIL, ETC.
finds the following elected positions qualify for membership in IMRF.

TITLE OF ELECTED POSITION	DATE POSITION BECAME QUALIFIED
_____	_____
_____	_____
_____	_____

CERTIFICATION

I, _____, the _____
NAME CLERK OR SECRETARY OF THE BOARD
of the _____ of the County of _____,
EMPLOYER NAME COUNTY
State of Illinois, do hereby certify that I am keeper of its books and records and that the foregoing is a true and correct
copy of a resolution duly adopted by its _____ at a meeting duly
BOARD, COUNCIL, ETC.
convened and held on the _____ of _____ 20_____.
DAY MONTH YEAR

SIGNATURE CLERK OR SECRETARY OF THE BOARD

* Any person who knowingly makes any false statement or falsifies or permits to be falsified any record of the Illinois
Municipal Retirement Fund in an attempt to defraud IMRF is guilty of a Class 3 felony (40 ILCS 5/1-135).

Illinois Municipal Retirement Fund
2211 York Road, Suite 500, Oak Brook, Illinois 60523-2337
Employer Only Phone: 1-800-728-7971
www.imrf.org

ORDINANCE NO. 17- 06
THE CITY OF VIENNA, ILLINOIS

**AN ORDINANCE CONCERNING TOWING AND IMPOUNDING VEHICLES
INVOLVED IN CRIMES WITHIN THE CORPORATE LIMITS OF THE CITY OF
VIENNA.**

A. WHEREAS, 625 ILCS 5/11-208.7 confers upon municipalities the authority to establish, by ordinance, procedures for the release of properly impounded vehicles and for the imposition of reasonable administrative fees related to its administrative and processing costs.

B. WHEREAS, it is necessary for the City of Vienna to impose reasonable administrative fees on towed and impounded vehicles involved in crimes within the City of Vienna in order to offset a portion of the costs associated with the investigation, arrest, and detention of offenders, and the removal, impoundment, and storage of towed and impounded vehicles.

C. WHEREAS the corporate authorities of the City of Vienna deem it proper and in the best interests of the City of Vienna to establish reasonable administrative fees on towed and impounded vehicles and to provide for their enforcement;

NOW THEREFORE, be it ordained by the Mayor and City Council of the City of Vienna as follows:

TOWING AND IMPOUNDING VEHICLES INVOLVED IN A CRIME:

- A. Definitions: For the purpose of this sections, the following words and phrases shall have the following meanings ascribed to them respectively:

ADMINISTRATIVE HEARING OFFICER: Officer who is an attorney licensed to practice law in this State for a minimum of three (3) years.

BUSINESS DAY: Any day in which City Hall is open to the public.

CONTROLLED SUBSTANCES: Any substance as defined and included in the schedules of Article II of the Illinois Controlled Substances Act, 720 Illinois Compiled Statutes 570/201 et seq., and cannabis as defined in the Cannabis Control Act, 720 Illinois Compiled Statutes 550/1/ et seq.

DRIVING A VEHICLE BY PERSON SUBJECT TO WARRANT: Operation or use of a motor vehicle by a person against whom a warrant had been issued in the State of Illinois for failing to answer charges that the driver violated section 6-101, 6-303, or 11-501 of the Illinois Vehicle Code.

DRIVING ON A SUSPENDED OR REVOKED LICENSE: Any offenses as defined in section 5/6-303 of the Illinois Vehicle Code, 625 ILCS 5/6-303.

DRIVING ON AN EXPIRED LICENSE: Operation or use of a motor vehicle with an expired license, in violation of section 5/6-101 of the Illinois Vehicle code, 625 ILCS 5/6-101, if the period of expiration is greater than one year.

DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS AND/OR INTOXICATING COMPOUNDS: Any offenses as defined in section 5/11-501 of the Illinois Vehicle code, 625 ILCS 5/11-501.

DRIVING WITHOUT A LICENSE OR PERMIT: Operation or use of a motor vehicle without ever having been issued a license or permit, in violation of section 6-101 of the Illinois Vehicle Code, or operating a motor vehicle without ever having been issued a license or permit due to a person's age.

FLEEING OR ATTEMPTING TO ELUDE A POLICE OFFICER: Any offenses as defined in section 5/11-204 or 11-204.1 of the Illinois vehicle code, 625 ILCS 5/11-204 and 204.1.

LEAVING THE SCENE OF A PERSONAL INJURY OR PROPERTY DAMAGE ACCIDENT: Any offenses as defined in sections 5/11-40, 5/11-402, and 5/11-403 of the Illinois Vehicle Code, 625 ILCS 5/11-401, 402, and 403.

LEVEL 1 ADMINISTRATION FEE: Two hundred dollars (\$200.00).

LEVEL 2 ADMINISTRATION FEE: One hundred dollars (\$100.00).

MISDEMEANOR: Any misdemeanor offense as defined by Illinois Statute.

MOTOR VEHICLE: Every vehicle which is self-propelled, including, but limited to automobiles, trucks, vans, motorcycles, and motor scooters.

OWNER OF RECORD/INTERESTED PERSON: The recorded title holder(s) or lienholder(s) of the motor vehicle as registered with the Secretary of State, State of Illinois, or is not registered in Illinois, the particular State where the motor vehicle is registered.

PRELIMINARY HEARING OFFICER: The chief of police, assistant chief of police or a police sergeant.

THEFT OFFENSE: Any offense in violation of Article 16 of the Criminal code, Chapter 720 of the Illinois Compiled Statutes.

TRAFFIC VIOLATION: Any offense as defined by the Illinois Vehicle Code.

WEAPONS OFFENSE: Any of the following offenses contained within Article 24 of Chapter 720 of the Illinois Compiled Statutes: 720 ILCS 5/24-1, 24-1.1, 24-1.2, 24-1.25, 24-1.5, 24-1.6, 24-1.6, 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.2, 24-3.3, 24-3.4, 24-3.5, 24-3.6, and 24-3A.

B. Motor Vehicle Impoundment:

The City of Vienna (the “city”) shall follow the procedures set forth herein when impounding vehicles and shall impose reasonable administrative fees, payable to and collected by the city, related to its administrative and processing costs associated with the investigation, arrest, and detention of an offender, or the removal, impoundment, storage, and release of the vehicle. The administrative fees imposed herein by the city shall be uniform for all similarly situated vehicles and are in addition to any other penalties or fees that may be assessed by a court of law for the underlying violations, or by a person, firm, or entity that tows and stores the impounded vehicle.

C. Violations Authorizing Impoundment

1. Any motor vehicle, operated with the express or implied permission of the owner of record/interested person, that is used in connection with the following violations shall be subject to seizure and impoundment by the city, and the owner of record of said motor vehicle or its agent, shall be liable to the city for a **Level 1** administrative fee, in addition to any fees for the towing and storage of the vehicle and any other criminal penalties assessed by a court of law.
 - a. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to section 36-1 of the Criminal Code of Illinois; or
 - b. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of section 11-501 of the Illinois Vehicle Code; or
 - c. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of a felony offense of the cannabis control act; or
 - d. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act; or
 - e. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of section 24-1 (unlawful use of a weapons), 24-1.5 (reckless discharge of a firearm), or 24-3.1 (unlawful possession of firearms and firearm ammunition) of the Criminal Code of Illinois; or
 - f. Driving while driver’s license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to section 6-303 of the Illinois Vehicle Code;
 - g. Operation or use of a motor vehicle while soliciting, or attempting to solicit a controlled substance, as defined by the Illinois Controlled Substances act; or

- h. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of article 16 (theft offenses) of the Criminal Code of Illinois; or
 - i. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other felony offenses in violation of the criminal or vehicle codes of Illinois.
- 2. Any motor vehicle, operated with the express or implied permission of the owner of record/interested person that is used in connection with the following violations, including arrest warrants, shall be subject to impoundment by the city, and the owner of record or its agent, shall be liable to the city for a **Level 2** administrative fee, in addition to any fees for the towing and storage of the vehicle and any other criminal penalties assessed by a court of law for the underlying offense as hereinafter provided:
 - a. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor violation of the Cannabis Control Act; or
 - b. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor offense in violation of Article 16 (theft offenses) of the Criminal Code of Illinois; or
 - c. Operation or use of a motor vehicle in the commission of, or in the attempt to commit any other misdemeanor offense in violation of the criminal or vehicle codes of Illinois; or
 - d. Operation or use of a motor vehicle with an expired driver's license, in violation of section 6-101 of the Illinois Vehicle code if the period of expiration is greater than one year.

D. Towing and Impoundment:

- 1. Whenever a police officer has reason to believe that a motor vehicle is subject to towing and impoundment pursuant to this ordinance, the police officer shall provide for the towing of the motor vehicle to a facility controlled or approved by the city. This section shall not apply if the motor vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities.
- 2. The city shall notify, or make a reasonable attempt to notify, the owner of record/interested person or any person who is found to be in control of the motor vehicle at the time of the alleged violation of the fact of the towing and impoundment of the motor vehicle and the owner's right to an administrative hearing under this section.
- 3. The city shall also provide a notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner of

record/interested person of the vehicle posts with the city a bond equal to the administrative fee as provided by this section and pays for all towing and storage charges. Whenever the owner of record/interested person of a vehicle impounded pursuant to this section requests, in writing, hand delivered to the police department, a preliminary hearing on the probable cause within twelve (12) hours after the impoundment, a preliminary hearing officer shall conduct such preliminary hearing within seventy two (72) hours after the impoundment, excluding Saturdays, Sundays and holidays. The owner of record/interested person at the time of the alleged offense shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the preliminary hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime described as a level 1 or level 2 administrative fee offense, the preliminary hearing officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of record/interested person posts with the city a cash bond in the amount of the level 1 or level 2 administrative fee offense, plus fees for towing and storing the vehicle. If the preliminary hearing officer determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.

E. Administrative Hearing:

1. Within ten (10) days after a motor vehicle is impounded pursuant to this section, the city shall notify by personal service or by first class mail, to the owner of record/interested person, along with a Summons commanding that person to appear at a hearing before the administrative hearing officer, along with the date, time and location of the hearing, to challenge whether a violation of this section had occurred. The owner of record/interested person shall also be notified of the continued impoundment of the vehicle as provided in this section unless the owner of record/interested person posts with the city a cash bond in the amount of the level 1 or level 2 administrative fee offense, plus fees for towing and storing the vehicle. The hearing date must be scheduled and convened not less than 30 nor more than 40 days after the violation is reported. The owner of record/interested person and any other interested person(s) shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible.
2. If, after the hearing, the administrative hearing officer determines by a preponderance of the evidence that the motor vehicle was used in violation of this section, then the administrative hearing officer shall enter an order finding the owner of record of the motor vehicle liable to the city for the applicable administrative fee.
3. If, after the hearing, the administrative hearing officer does not determine by a preponderance of the evidence that the motor vehicle was used in such a violation, the administrative hearing officer shall enter an order finding for the owner and for the return of the motor vehicle and the administrative fees if already paid.
4. If the owner of record fails to appear at the hearing, the owner of record/interested person shall be deemed to have waived his or her right to a hearing. If the owner of

record/interested person pays such administrative fee and the motor vehicle is returned to the owner of record/interested person, no default order need be entered if the owner of record/interested person was informed of his or her right to a hearing, in which case an order of liability shall be deemed to have been made when the city receives the written waiver.

5. If a bond in the amount equal to the applicable administrative fee is posted with the police department, the motor vehicle shall be released to the owner of record/interested person. The owner of record/interested person shall still be liable to the towing agent for any applicable towing fees.
6. If an administrative fee is imposed for a violation of this section, the bond will be forfeited to the city; however if a violation of this section is not proven by preponderance of the evidence, the bond will be returned to the person posting the bond. All bond money posted pursuant to this section shall be held by the city until the administrative hearing officer issues a decision, or, if there is a judicial review, until the court of jurisdiction issues its orders.
7. All decisions of the administrative hearing officer shall be subject to review under the provisions of the Illinois Administrative Review Law.

F. Disposition of Impounded Motor Vehicle:

1. An administrative fee imposed pursuant to this section shall constitute a debt due and owing the city.
2. A motor vehicle impounded pursuant to this section shall remain impounded until:
 - a. The administrative fee is paid the city and all applicable towing fees are paid to the towing agent, in which case the owner of record/interested person shall be give possession of the motor vehicle;
 - b. A bond in an amount equal to the applicable administrative fee is posted with the police department and all applicable towing fees are paid to the towing agent, at which time the motor vehicle will be released to the owner of record/interested person; or
 - c. Any motor vehicle that is not reclaimed or retrieved from the facility controlled or approved by the city within thirty five (35) days after the administrative hearing officer issues a written decision shall be deemed abandoned and may be disposed of in accordance with the provisions of Article II of Chapter 4 of the Illinois Vehicle Code
 - d. The administrative fee imposed by the city of impounded vehicle shall be in addition to any fees charged for the towing and storage, or both, of an impounded vehicle. The towing or storage, or both, of an impounded vehicle. The towing or storage fees, or both, shall be collected by and paid to the person, firm, or entity that tows and stores the impounded vehicle. The

towing and/or storage company shall be entitled to receive a fee from the owner of record/interested person entitled to possession of any such vehicle prior to the release of the vehicle. The fee shall be to cover the cost of removing said vehicle and, in addition, any fees for the cost of storage of the vehicle for each day or fraction thereof that said vehicle remained at their storage facility in compliance with their practices.

- e. It shall be the duty of the towing or storage company in possession of the vehicle to obtain documentation issued by the police department confirming compliance with the foregoing requirements and to retain photocopies of the documentation in their files for a period of not less than twelve (12) months following release of said vehicle. The foregoing information shall be made available to the authorities of the city for inspection and copying upon their request, by the towing or storage company. The towing or storage company is prohibited from releasing any vehicle they may tow within the city until and unless they obtain the documentation as noted above.
- f. The administrative fees established by this section are to be paid by the owner of record/interested person, or the agents of the owner or record/interested person, of the vehicle involved in the incident leading to custodial arrest regardless of whether that person was operating the vehicle at the time of the incident. Vehicles towed by the police department for any reason other than those listed above shall be released to the owner of record/interested person with no administrative fee charged by the city. The person purporting to be the owner of record/interested person, or the agents of the owner of records/interested person, must present proof of ownership, current proof of insurance and possess a valid driver's license prior to release.
- g. Upon verifiable proof that the vehicle used in violation was stolen at the time it was impounded, or if the vehicle was operating as a common carrier including, but not limited to, taxicabs or buses and the violation occurred without the knowledge of the person in control of the vehicle, the administrative fee shall be waived by the city.
- h. Unless stayed by a court of competent jurisdiction, any administrative fee imposed under this section which remain unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. This section incorporates sections 4/201 through 4/214.1 of the Illinois Vehicle Code to the extent they are consistent. Where a provision of this section differs from sections 4/201 through 4/214.1 of the Illinois Vehicle Code, the provisions of this section shall be controlling. Enforcement and administration of this section shall be consistent with the policies and procedures of section 4/201 through 4/215 of the Illinois Vehicle Code to the extent that said policies and procedures do not directly conflict with the provisions of this section.

G. This ordinance repeals any prior ordinances, resolutions, or portions thereof in conflict herewith.

H. This Ordinance shall be in full force and effect after its passage, approval, and publication, as required by law.

Dated this 5th day of July, 2017 pursuant to a roll call vote as follows:

AYES: _____

NAYES _____

ABSENT: _____

APPROVED this 5th day of July, 2017.

Jon Simmons, Mayor

ATTEST:

City Clerk, Aleatha Wright

I, Aleatha Wright, Clerk of the City of Vienna, Johnson County, Illinois, do hereby certify that I am the legal custodian of the records and ordinances of said City of Vienna; that the foregoing is a true and complete copy of Ordinance 17- 06 of said City of Vienna, being An Ordinance Concerning Towing and Impounding Vehicles Involved in Crimes Within the Corporate Limits of the City of Vienna, was fully passed and approved by the City Council of said City of Vienna at a meeting held on July 5, 2017; that the same was approved and signed by Jon Simmons, Mayor of the City of Vienna and that said Ordinance is shall become effective after its passage, approval, and publication, as required by law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said City of Vienna this 5th day of July, 2017.

Aleatha Wright, Clerk for the City
of Vienna