



AMENDED

**DEKALB CITY COUNCIL AGENDA
REGULAR MEETING
FEBRUARY 28, 2022
6:00 P.M.**

DeKalb Public Library
Yusunas Meeting Room
309 Oak Street
DeKalb, Illinois 60115

COVID-19 Notice: The corporate authorities of the City of DeKalb intend to conduct this meeting in-person with a physically present quorum that is open to the public and in compliance with all applicable public health requirements. Pursuant to Governor Pritzker's Executive Orders 21-22 and 22-05, all persons attending this meeting who are age two or over and able to medically tolerate a face covering (a mask or cloth face covering) shall be required to wear protective face masks/coverings.

A. CALL TO ORDER AND ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF THE AGENDA

D. PRESENTATIONS

1. [DeKalb Public Library Annual Report.](#)

E. PUBLIC PARTICIPATION

F. APPOINTMENTS

None.

G. APPROVAL OF THE MINUTES

1. Minutes Submitted by the City Clerk.
 - a. [Minutes of the Regular City Council Meeting of February 14, 2022.](#)
2. Minutes Submitted by the Recording Secretary.
 - a. [Minutes of the Regular City Council Meeting of February 14, 2022.](#)

H. CONSENT AGENDA

1. [Accounts Payable and Payroll through February 28, in the Amount of \\$2,493,307.75.](#)

2. [Freedom of Information Act \(FOIA\) Report.](#)

I. PUBLIC HEARINGS

1. Public Hearing Regarding the Renewal of the Comcast Franchise Agreement.

City Manager's Summary: The City of DeKalb's current cable television franchise agreement with Comcast of California/Colorado/Illinois/Indiana/Michigan, LP expires on March 26, 2022. As required by the Cable Communications Policy Act and other applicable law, a public hearing must be held to provide members of the public an opportunity to comment on the proposed features of a successor agreement.

The draft franchise renewal agreement in the agenda background has the following features:

- a) A non-exclusive 10-year franchise agreement which replaces the 10-year agreement now expiring.
- b) Comcast pays a franchise fee to the City of 5% of the annual gross revenues received from their operation of a cable system within the corporate limits, as per the current franchise agreement. The fee shall be paid on a quarterly basis.
- c) The requirement of underground cable construction in new subdivisions and where the transmission facilities are already underground.
- d) Comcast currently provides capacity for the City's noncommercial public or educational access programming (Channel 14) and will continue to do so. The cost of the broadcast center installed at the DeKalb Library was paid solely by the City in 2020. If in the future the City wants rate payer assistance in expanding its broadcast programming, it will be able to impose a "Public, Educational and Government" (PEG) capital fee of up to 35 cents per customer per month to be passed on to subscribers on their monthly bills. Such action would require Council approval.

The proposed franchise agreement conforms to the model supported by the Metropolitan Mayors Caucus of Illinois. By way of background, the most recent trend in franchise fee revenue from Comcast and their closest local competitor, MetroNet, in the period January 1, 2017, to February 28, 2022, is captured in the table that follows:

Date	Description	COMCAST	METRONET
	FRANCHISE TAX		
05/31/2017	COMCAST JAN- MAR 17	125,133.27	
08/31/2017	COMCAST APR JUN 17	125,454.78	
11/30/2017	COMCAST JUL-SEPT 17	124,759.71	
12/31/2017	COMCAST OCT - DEC '17	124,036.35	
TOTAL 2017		\$ 499,384.11	-
05/31/2018	COMCAST JAN-MAR18	116,224.34	
08/31/2018	COMCAST APR-JUN18	117,193.60	
11/06/2018	CABLE FRANCHISE TAX 11/06/2018	115,081.65	
12/31/2018	COMCAST OCT - DEC 2018	120,395.18	
TOTAL 2018		\$ 468,894.77	\$ -

05/07/2019	COMCAST MARCH 2019	116,161.37	
08/12/2019	COMCAST JUNE 2019	114,360.92	
08/16/2019	CABLE FRANCHISE TAX 08/16/2019		1,119.72
11/07/2019	COMCAST SEPT 20	108,106.79	
11/21/2019	CABLE FRANCHISE TAX 11/21/2019		3,498.98
12/31/2019	COMCAST OCT - DEC 2019	104,508.33	
12/31/2019	METRONET OCT - DEC 2019		5,092.32
TOTAL 2019		\$ 443,137.41	\$ 9,711.02
05/13/2020	COMCAST MARCH 2020	102,057.61	
05/20/2020	CABLE FRANCHISE TAX 05/20/2020		5,809.68
08/10/2020	COMCAST JUNE 2020	97,088.07	
08/26/2020	CABLE FRANCHISE TAX 08/26/2020		6,812.66
11/19/2020	COMCAST SEPT 2020	103,334.08	
12/31/2020	COMCAST OCT - DEC 2020	96,335.04	
12/31/2020	METRONET OCT - DEC 2020		6,821.74
TOTAL 2020		\$ 398,814.80	\$ 19,444.08
05/12/2021	COMCAST MARCH 2021	100,355.77	
05/21/2021	CABLE FRANCHISE TAX 05/21/2021		6,669.33
08/26/2021	CABLE FRANCHISE TAX 08/26/2021		6,681.73
10/22/2021	COMCAST JUNE 2021	100,470.83	
11/08/2021	COMCAST SEPT 2021	97,440.42	
12/10/2021	CABLE FRANCHISE TAX 12/10/2021		6,893.26
2/15/2022	COMCAST DEC 2021	94,309.45	
TOTAL 2021		\$ 392,576.47	\$ 20,244.32

Resolution 2022-021 is the agenda action item pertaining to this franchise proposal. A representative from Comcast will be present to answer any Council questions. ([click here for additional information](#))

J. CONSIDERATIONS

1. Consideration of the Kishwaukee River Bridge Replacements at N. First Street and Lucinda Avenue.

City Manager's Summary: The Kishwaukee River bridge structures at N. First Street and Lucinda Avenue have been programmed for replacement by the City and the Illinois Department of Transportation (IDOT) for a number of years. Preliminary engineering has been completed and the construction engineering is budgeted for FY2022. The general contract for the bridge replacement will be awarded in early August, but actual construction that would be disruptive to the public will not commence until the spring of 2023. **As part of the approaching IDOT permit approval and contract letting, a Public Information Presentation (not a hearing) is required.** This simply entails a presentation of the basics of the project to the public and assurance that the City has coordinated with all relevant community agencies that would be potentially impacted. The two bridge projects have been described in the attached exhibit from the consulting engineering firm of Hampton, Lenzini and Renwick (HLR).

Funding for this estimated \$5.6 million project is 80% federal (estimated at \$4.5 million) and 20% local (estimated at \$1.1 million). The City has set aside a portion of the annual state motor fuel tax revenues in recent years for its local share. A unique feature of the N. First Street bridge will be a bike path under the bridge on the north side (see the attached graphics).

City Engineer Zac Gill will be on hand to answer any technical questions. ([click here for additional information](#))

K. RESOLUTIONS

1. Resolution 2022-020 Approving a Bar Liquor License to Galindo, Inc., d/b/a La Calle, 263 E. Lincoln Highway.

City Manager's Summary: Galindo, Inc., d/b/a La Calle, to be located at 263 E. Lincoln Highway, has submitted an application for a bar liquor license, along with a supplemental annual live entertainment permit. The owner, Yesenia Galindo, will be working with the City's Building Department on any necessary building improvements. If the liquor license is approved, the City will receive an initial issuance fee of \$10,766 and \$377 for the live entertainment permit.

La Calle, which translates to "The Street," will be operating from the location where "The House" was formerly located. According to Ms. Galindo, the business is tentatively scheduled to open in early August of this year. She is seeking a conditional liquor license at this time in order to begin the process of applying for the State of Illinois liquor license. Ms. Galindo has been made aware that the City liquor license will remain conditional until all inspections are passed and other requirements, as listed in the attached resolution, are met.

Ms. Galindo is very excited about this venture and looks forward to being a part of the new downtown DeKalb experience.

City Council approval is recommended. ([click here for additional information](#))

2. Resolution 2022-021 Approving 10-Year Cable Franchise Renewal Agreement with Comcast.

City Manager's Summary: Under the Public Hearing portion of this agenda, some background is presented regarding a proposed successor agreement for the Comcast franchise. The agreement has been vetted by the City Attorney with respect to applicable law. The principal features are as follows:

- a) A non-exclusive 10-year franchise agreement which replaces the 10-year agreement now expiring.
- b) Payment of a franchise fee to the City equal to 5% of the annual gross revenues received from their operation of a cable system within the corporate limits, as per the current franchise agreement.

- c) The requirement of underground cable construction in new subdivisions and where the transmission facilities are already underground.
- d) Capacity for the City's noncommercial public or educational access programming (Channel 14). If, in the future, the City wants rate payers to participate in the cost of expanding the Channel 14 programming, a "PEG" capital fee of up to 35 cents per customer per month can be imposed on subscribers on their monthly bills. Such action would require Council action.

The proposed agreement follows a model which has been supported by the Metropolitan Mayors Caucus of Illinois.

City Council approval is recommended. [\(click here for additional information\)](#)

3. Resolution 2022-022 Approving an Intergovernmental Agreement with the State of Illinois Department of Transportation Regarding the Appropriation of Funds for ADA Curb Ramp Improvements and Parking Resurfacing in Conjunction with the Milling and Resurfacing of Illinois Route 38 from Approximately Illinois Route 23 to the Kane County Line.

City Manager's Summary: The Illinois Department of Transportation (IDOT) will complete a major resurfacing project through the City of DeKalb in 2022 along Illinois Route 38 (Lincoln Highway). This is independent of the City-led downtown reconfiguration, also scheduled for this summer. The IDOT resurfacing includes ADA-compliant sidewalk work to achieve more consistent transitional areas. It is customary for municipalities to participate in such ADA work because of the positive impact on local pedestrian movements, and the City's share in this case is less than \$12,000.

City Council approval is recommended. [\(click here for additional information\)](#)

4. Resolution 2022-023 Amending Resolution 2020-111 to Extend the Deadline for the Issuance of a Package Liquor License with Supplemental Drive-Through Licensure for Blue Ridge LLC - 1221, 1221 W. Lincoln Highway.

City Manager's Summary: As Planning Director Dan Olson writes in his background memorandum, Jeff Dobie has requested a one-year extension for a supplemental package liquor license and drive-through license at 1221 W. Lincoln Highway (across from Fatty's Pub & Grill). The extension would begin on March 12, 2022, and extend through March 12, 2023.

On October 12, 2020, the City Council approved Resolution 2020-111 and Resolution 2020-112, which authorized a package liquor license with a supplemental drive-thru license for 1221 W. Lincoln Highway, as well as a bar liquor license with supplemental licensure for video gaming. The resolutions contained a one-year time frame to obtain the necessary zoning authorizations.

The City Council approved Ordinance 2021-032 on August 23, 2021, approving the rezoning of the site as well as a preliminary plan. The ordinance required the submittal of a final development plan and final plat prior to any building permit being issued, which have not yet been submitted. In view of the volatility surrounding hospitality businesses in 2020 and 2021, the August 2021 resolutions also allowed the City Manager to approve a

six-month extension once the one-year time frame expired. Such an extension was granted.

The City Manager's six-month extension expires on March 12, 2022. According to the resolutions approved in 2020, any further extensions beyond March 12, 2022, require City Council approval. Mr. Dobie is requesting a one-year extension for the package liquor license at 1221 W. Lincoln Highway and indicates in his request he will start the construction project this spring with completion in the fall.

City Council approval is recommended. ([click here for additional information](#))

5. Resolution 2022-024 Amending Resolution 2020-112 to Extend the Deadline for the Issuance of a Bar Liquor License with Supplemental Licensure for Video Gaming for Blue Ridge LLC – 1221, 1221 W. Lincoln Highway.

City Manager's Summary: The package liquor license approved for 1221 W. Lincoln Highway in October 2020 included supplemental licensure for video gaming. The resolution contained a one-year time frame (October 12, 2021) to obtain the necessary zoning authorizations. The City Council approved Ordinance 2021-032 on August 23, 2021, approving the rezoning of the site and a preliminary plan.

The resolution also allowed the City Manager to approve a six-month extension after the one-year time frame had expired, which was granted. The six-month extension expires on March 12, 2022. According to the resolution approved in 2020, any further extensions beyond March 12, 2022, require City Council approval. Mr. Dobie is requesting a one-year extension until March 12, 2023.

City Council approval is recommended. ([click here for additional information](#))

L. ORDINANCES – SECOND READING

None.

M. ORDINANCES – FIRST READING

1. Ordinance 2022-011 Repealing Chapter 22 “Building Code Board of Appeals” and Amending Chapter 24 “Building Code” to Create a New Chapter 22 “Building Code Review Board” and Making Procedural Changes for the Administrative Enforcement of the Building Code.

City Manager's Summary: This proposed ordinance makes procedural changes to the City's Municipal Code (the “Code”) by eliminating the Building Code Board of Appeals (BCBA) and replacing it with a new Building Code Review Board.

When the Building Code Board of Appeals was created in August 2016, it was thought that the Board would have two purposes:

- a) Consideration and rulings on private appeals of enforcement actions and license or permit denials by the Chief Building Official; or
- b) The periodic review of proposed changes to the adopted building code series. In this role, the Board would be in an advisory role to the Council.

Following its creation, the Board met in 2017 and 2018 to review proposed changes to locally adopted building codes leading to the adoption of the 2015 International Code series which includes texts on general construction, property maintenance, mechanical installations, fire protection, etc. **According to the BCBA's minutes published on the City's website, the BCBA has not met since April 5, 2018, nor has the BCBA ever considered an appeal of the Chief Building Official's enforcement actions.** The lack of appeals can be explained in part by the City's customary practice of prosecuting Building Code violations under the City's "Administrative Hearing Procedure" which is defined in detail in Chapter 17 of the DeKalb Municipal Code.

Generally speaking, under the City's Administrative Hearing process, the Chief Building Official or designee gives a written notice of a Building Code violation to a property owner in conjunction with notice of an administrative hearing on the violation. After conducting the hearing, the City's Hearing Officer determines whether or not a violation exists and imposes any penalties or corrective actions by written order. The Hearing Officer's final order may be appealed to the Circuit Court of DeKalb County. Literally hundreds of such violations and orders have been entered and successfully prosecuted for property maintenance violations at a number of multi-family apartment complexes in recent years. Unfortunately, the unintended consequence of the dual existence of two different and competing administrative procedures in Chapter 17 and Chapter 22 of the DeKalb Municipal Code was a conflict before the Administrative Hearing officer. The legal counsel representing a large local apartment complex which has been notorious in recent years for its neglect of property deficiencies saw an opportunity to sweep away numerous complaints by asserting the provenance of the unused appeal procedure defined in Chapter 22, Building Code Board of Appeals, over the often-used procedures in Chapter 17.

Accordingly, the proposed ordinance is offered by the City Attorney as the most efficient way to clarify the City's administrative procedures for enforcing Building Code violations. If approved, the Board would hereafter serve in the role of an advisory body to the Council for comment on any proposed changes to the locally-adopted building code series. In 2022, it is expected that the Board will be busy reviewing the latest series of the locally-adopted International Code (2021), which would logically replace the 2015 series presently in force in DeKalb. The several texts of that Code series covering new construction, fire protection, mechanical installations, and property maintenance, among other topics, will require the collaborative review and critique of the volunteer board and City staff over some months.

City Council approval is recommended. [\(click here for additional information\)](#)

- 2. Ordinance 2022-012 Amending Chapter 51 "Traffic", Schedule C "Parking Prohibited", Schedule E "Limited Parking", and Schedule F "Limited Parking – Central Business District".**

City Manager's Summary: City Engineer Zac Gill and Assistant Director of Public Works Andy Raih have collaborated on this "clean up" ordinance. It is not intended to enact any significant alterations to existing parking restrictions for the community. It is intended to revise language in various sections of Chapter 51 "Traffic" to establish consistent and clear references to actual signage and to clean up errant language.

Specifically, in order to establish legally enforceable parking restrictions, the ordinance must consistently describe field locations.

Additionally, over many decades as new signs have been added, unintended confusion has resulted because a previous or similar section or description has not been revised. The caution of “in with the new and out with the old” has sometimes been ignored in the urgency to “get in with the new.”

Finally, as developments have altered the physical conditions some de facto parking limitations or alterations have resulted which have not been incorporated in the code. For example, as a new driveway is added for a new or remodeled business, a sign along the curb may need to be removed and relocated, not only out of the drive lane but to account for new sight lines. Or, when alternating parking restrictions create confusion or impede operations such as snowplowing or emergency response, some adjustments may be necessary.

The detailed, color-keyed background walks the reader through all the possible changes that have been on “to do” lists in the City’s Street Department and Engineering Office for years. Recognizing that codes restricting or authorizing parking can adversely impact businesses and homes along public streets throughout town, a careful review of the proposed changes is welcome. City Employees Andy Raih, Zac Gill, Doug Eaton, and John Lucius have worked hard to eliminate controversy and to remove longstanding inconsistencies. Mr. Raih and Mr. Gill will be on hand to answer specific Council or public questions.

City Council approval is recommended. ([click here for additional information](#))

N. REPORTS AND COMMUNICATIONS

- 1. Council Member Reports.**
- 2. City Manager Report.**

O. EXECUTIVE SESSION

None.

P. ADJOURNMENT

[REGULAR AGENDA PACKET – FEBRUARY 28, 2022](#)