



**DEKALB CITY COUNCIL AGENDA
REGULAR MEETING
OCTOBER 10, 2022
6:00 P.M.**

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

Pursuant to Chapter 2 “City Council”, Section 2.04 “Council Meetings”, persons wishing to address the City Council during this meeting are required to register with the City Clerk or the Recording Secretary by filling out and submitting a Speaker Request form, copies of which are located on the table just outside the meeting room, along with copies of the agenda. Comments will be limited to three (3) minutes. Further information for addressing the City Council can be found on the Speaker Request form.

A. CALL TO ORDER AND ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF THE AGENDA

D. PRESENTATIONS

1. [Proclamation: White Cane Awareness Day, October 15, 2022.](#)

E. PUBLIC PARTICIPATION

F. APPOINTMENTS

None.

G. APPROVAL OF THE MINUTES

1. **Minutes Submitted by the City Clerk**

None.

2. **Minutes Submitted by the Recording Secretary**

- a. [Minutes of the Regular City Council Meeting of September 26, 2022.](#)

Assistive services, including hearing assistance devices, available upon request.

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H. CONSENT AGENDA

1. [Accounts Payable and Payroll through October 10, 2022, in the Amount of \\$2,995,966.67.](#)
2. [Investment and Bank Balance Summary through August 2022.](#)
3. [Year-to-Date Revenues and Expenditures through August 2022.](#)

I. PUBLIC HEARINGS

None.

J. CONSIDERATIONS

1. **Consideration of Electronic Product Promotion Kiosks and their Legality in the City of DeKalb.**

City Manager's Summary: Over the past several months, the City has received requests from a few DeKalb businesses asking permission to allow the placement of POMI Amusement Product Promotion Kiosks, which are gaining in popularity. Soft research indicates the kiosks are "electronic product promotion kiosk sweepstake games that provide a fun experience for customers with a chance to win cash." After inserting a certain dollar amount, the customer receives a certificate which entitles them to visit the POMI website and shop for available products. In addition to the online shop, the customer receives tokens to play games for a monetary reward.

The "Sweepstakes" approach gets around the gambling description in the state law, but there is a "gaming" element in the sense that a credit card entry may not provide the products or the "fun" that is advertised. The Council's stated concern about the proliferation of gaming devices of any description in DeKalb prompts this agenda item. Currently, one known business on Sycamore Road has introduced these machines without approaching the City, and more may be in the offing. City officials only became aware of these machines because one of the City's licensed video gaming establishments questioned their legality.

The City's Municipal Code defines amusement devices as follows:

Any machine, apparatus, contrivance, appliance, or device which may be operated or played involving in its use either skill or chance, including, but not limited to pool table, billiards, bumper pool, tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, shuffleboard machine, basketball machine, baseball game machine, football game machine, dart game, electronic video game, or any other similar mechanical or electronic game machine or device (such as a crane machine). Jukeboxes are excluded.

If the City wants to allow these types of machines in businesses, Chapter 36 "Amusements" would need to be amended to add the kiosks as an allowed form of amusement, and some licensing fee schedule would be in order. The following picture shows the machines in use in DeKalb:

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

2. Consideration of the City's Electrical Contracts and Municipal Aggregation Bids.

City Manager's Summary: The City currently has three electrical contracts that will expire towards the end of this year (Airport, Street Lighting, and Wells and Treatment Plants). Constellation Energy is the current provider under all three contracts. In addition to these contracts, electrical aggregation is also being reviewed. The City Council elected not to enter an aggregation contract last year and ComEd, by default, became the supplier for most residential customers.

Over the past year, City staff have been monitoring energy prices to determine the best path forward in terms of signing any new energy contract or electric aggregation agreement. At the present time, wholesale energy prices are historically high, and there is a great deal of volatility in the market due to many factors (see Exhibit A, attached). This instability makes it difficult to predict, with any assurance, where prices may be over multiple years.

To evaluate energy prices, the City requested bids from suppliers in both June and September of this year. Terms ranging from a minimum of 12 months, up to a maximum of 60 months, were requested. A complete listing of the bids for all three contracts is summarized in the table that follows. In all cases, energy rates decrease as the length of the term increases. This suggests that energy suppliers are hedging their bets on energy prices decreasing in the future. It should be noted that energy suppliers provide bids with fixed rates over the term of the agreement. By contrast, ComEd's rate is not a fixed rate, and floats with the movement of day-to-day market conditions.

The following table provides a brief comparison of the current energy rate for each contract, the lowest bid received, and the current ComEd rate.

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Energy Contract	Current Supplier	Current Rate	Current ComEd Rate	Low Bid	12 Month	24 Month	36 Month	48 Month	60 Month
Street Lighting	Constellation	0.02743	0.05142	AEP	0.07609	0.06398	0.05843	0.05556	0.05391
Airport	Constellation	0.05033	0.09149	Constellation	0.09549	0.08316	0.07720	*	*
Wells & WTP's	Constellation	0.03054	0.08900	Constellation	0.06863	0.05841	0.05396	*	*
Aggregation	ComEd	0.11049**	0.11049	Eligo Energy	0.08873***	0.08534	0.08517	*	*

* No bid submitted for this term length

** ComEd Rate changes monthly. Avg. rate over past 1 year = 0.08717. Range of Rate = 0.06776 – 0.11049

*** Electric Aggregation bids received are for a start date of June 2023

Street Lighting

- ComEd is recommended as energy supplier for the City Street Light contract. The current ComEd rate of \$0.05142 is below the lowest bid price received from AEP, even over an extended term.

Airport

- ComEd's current rate of \$0.09149 is lower than the lowest bid received from Constellation (\$0.9549), for a 12-month term agreement. On the surface, the bid for a 24-month (\$0.08316) or 36-month (\$0.07720) term appears to look attractive and could produce a savings when compared to the current ComEd rate. However, one must consider what the ComEd rate may be in 24 to 36 months. Assuming that energy prices will decrease over the next two to three years, the best choice for energy supplier is ComEd.

Wells & Treatment Plants

- Unlike the Street Lighting and Airport Contracts, the low bid received from Constellation Energy is more favorable than the ComEd rate. The current ComEd rate of \$0.08900 is considerably higher than the 12-month rate provided by Constellation (\$0.06863). Longer terms of 24-months (\$0.05841) and 36-months (\$0.05396) could potentially provide additional savings. The Constellation bid is recommended.

Electric Aggregation

- ComEd's current rate of \$0.11049 is considerably higher than the 12-month bid received from Eligo Energy (\$0.08873) and it would initially appear that an aggregation agreement may be beneficial. However, several factors should be considered. The first is that the bids received are for a start date of June 2023, so comparing a current ComEd rate to a future energy rate (June 2023), is not valid. Consideration must be given to what the ComEd rate may be in June 2023 and where it may be over a 12-month to 36-month period beyond that date. Secondly, the ComEd rate can change monthly, based on market conditions. Exhibit D (attached) shows that the rate has averaged \$0.8717 over the past year and fluctuated between the range of \$0.06776 to \$0.11049. With the current volatility in the market, the decision on whether an aggregation agreement would be beneficial ultimately rests on whether one believes energy prices will increase or decrease over the next few years. There are no guarantees. If a long-term contract is locked in, then the City pays that price over multiple years even if the ComEd rate settles at a more favorable range. In this volatile

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market, the ComEd rate is recommended, with the option of going out to bid on the electric aggregation after the first year.

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

K. RESOLUTIONS

1. Resolution 2022-096 Authorizing a City Hall Mural Contract with Danielle Casali in an Amount Not to Exceed \$30,000.

City Manager's Summary: Since the Spring of this year, the Citizens' Community Enhancement Commission (CCEC) has worked diligently to develop specifications for public art in a number of applications, including building murals in the Downtown Business District. The general applications include wall murals on buildings, utility box artwork to disguise these large and generally industrial looking cabinets, "paint-a-plug" designs, and the brightening of infrastructure in public rights-of-way at major community entrances, such as the Annie Glidden Road underpass.

This agenda item concerns public art on downtown buildings and, more especially, the south side of City Hall at 164 E. Lincoln Highway. This wall space is large and daily greets the eye of an increasing volume of downtown shoppers and customers. There are several smaller and faded murals on the south wall of City Hall portraying different events that annually occur in our city. The CCEC has been interested in a unique and unitary design that portrays the "Belonging" theme that the City and a variety of NIU faculty and staff and other community members have embraced as a defining initiative.

A number of muralists with strong regional credentials have offered designs. One artist, Danielle Casali, has been selected by the CCEC to create the mural.

Ms. Casali enjoys working with community members on her murals. Recently, she completed a large mural in Hinckley that included both a painted background and a large expanse of glass and mosaic panels. As the agenda background illustrates, she has proposed to fill about three-fifths (3/5) of the south face of the City Hall with predominately mosaic and glass materials in a design that is created with community participation. The cost of this collaborative work will not exceed \$30,000. The City's cost will be \$10,000. The balance will come from the \$50,000 T-Mobile grant for public art. Given the closing winter weather, the actual construction will not begin until 2023.

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

2. Resolution 2022-097 Authorizing the Purchase of One Bobcat L38 Small Articulated Loader with Attachments through C.S.R. Bobcat Inc. in an Amount Not to Exceed \$52,985.79.

City Manager's Summary: The Public Works Department is requesting authorization to purchase one new Bobcat L38 Articulated Loader through C.S.R. Bobcat. The equipment will primarily be used for snow removal operations but will prove beneficial year-round due to its many attachments.

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It has been the practice of the Public Works Department to contract certain aspects of snow removal within the City of DeKalb. With rising fuel and labor costs and the recent expansion of sidewalks in the Central Business District, the Public Works Department feels it will be more cost-effective to forego a Request for Proposals (RFP) for private contractor services and absorb the additional snow removal "in-house". The proposed Bobcat purchase will be a key component in the snow removal process. In the past, a 2-inch snowfall prior to a contractor commencing snow removal operations has been the standard. In the downtown area, this means that any un-shoveled walkway would be hard packed with snow and ice after minor snow events. If the City were to move to a 1-inch snowfall threshold, the cost for private services would increase beyond our ability to pay.

The moderate FY2022 snow season affords the City an opportunity to consider another approach. The savings of \$52,662.50 in the Snow Removal Services line item (100-30-33-63400) will nearly cover the cost of the Bobcat unit. The remaining balance will be covered through the Street Equipment fund (100-30-33-86000).

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

3. Resolution 2022-098 Rejecting a Bid by Fischer Excavating in the Amount of \$769,869.20 for 290 Feet of Water Main Replacement on N. First Street Across the Kishwaukee River.

City Manager's Summary: As the Council is aware, the two bridges over the Kishwaukee River located at N. First Street and Lucinda Avenue are scheduled to be replaced next year. As part of the Lucinda Avenue bridge replacement project, the existing 10-inch water main will need to be replaced since the existing main location will interfere with the reconstruction of the bridge. The N. First Street bridge replacement did not require relocation of the existing water main; however, the Utility Division was interested in exploring the cost for replacement of a 290-foot section of water main across the Kishwaukee River running along the east side of the bridge, because it has had a history of failures over the years.

A Request for Bids (RFB) was released, and a bid opening was held on September 15, 2022. Only one bid was received from Fischer Excavating in the amount of \$769,869.20. This amount was \$549,124.60 over the engineering estimate of \$220,744.60. This bid was much higher than anticipated and substantially more than budgeted for this project.

Because the water main does not need to be relocated and the significantly higher bid would substantially exceed the budgeted amount for this project, the Utility Division is requesting rejection of the bid. The replacement of the bridge will not hamper or impede any future water main replacement at this location, should the City wish to revisit this project at a later time.

City Council rejection of the Fischer bid is recommended. ([click here for additional information](#))

4. Resolution 2022-099 Authorizing the Appropriation of Local Funds and a Joint Funding Agreement with the Illinois Department of Transportation for the Extension of a Multi-Use Path Along Fairview Drive for an Estimated \$18,500.

City Manager's Summary: The attached resolution authorizes a joint funding agreement with the Illinois Department of Transportation (IDOT) and commits the required local share of funds for the proposed multi-use bike path extension along Fairview Drive scheduled for a January 2023 bid letting at the state level.

The agreement binds the City to complete the DSATS Active Transportation initiatives such as the proposed trail plans that seek to assure connectivity for cyclists and pedestrians throughout the region. In this vein, the extension of a separated shared-use pathway along Fairview Drive would qualify, connecting the south side of our community to the developing Peace Road corridor. The bikeway would also provide safer access for pedestrians or cyclists to several large employers in Park 88 and increase recreational experiences for residents.

In 2021, Phase A of this pathway extension was completed. This segment provides connectivity near the Panduit campus and puts the City in position to easily connect to the Peace Road corridor when the Peace Road upgrade is nearly complete. The principal funding is provided through DSATS "small projects" STU allocations. The local match is provided through MFT funds. Construction will begin in the Summer of 2023.

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

5. Resolution 2022-100 Adopting the Recommendation of the Transit Site Selection Committee for the New Transit Maintenance and Operations Facility at the Dresser Road Location, and Approving the Final Minutes of and Dissolving the Transit Site Selection Committee.

City Manager's Summary: On September 22, the Transit Site Selection Committee, organized in 2021 to work with the City's consultant, Stantec Architecture, Inc., met to propose a prime transit center site from among various alternatives. The following persons have served on the Committee since its inception in the Fall of 2021:

- Council member Tracy Smith;
- NIU representative: Delvin Collins (student government); Jennifer Groce, Outreach Division;
- Community Representative: Ellingsworth Webb;
- Local Business: Matt Duffy, DeKalb Chamber; and
- General Construction: Steve Irving, Irving Construction

The City began the process to select a new transit center site in May 2019 when a Request for Qualifications (RFQ) for architectural and engineering services was circulated following the announcement of state and federal support for approximately \$1.75 million in grant support for the site selection and design process. Stantec Architecture was awarded the consulting services contract and collaborated with the former City Transit staff in a site selection process that resulted in the identification of the City's 35-acre property north of Dresser Road as the prime site, in close proximity to the transit system's main routes. This recommendation was brought to the Council on December 14, 2020, and the Council directed the staff to continue

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the investigation of this site for environmental concerns, roadway impacts, drainage issues, etc.

On April 12, 2021, Resolution 2021-029 requesting authorization to proceed with a further consulting agreement with Stantec was rejected with direction to investigate three possible transit center sites. On August 23, 2021, the Council approved a professional services agreement with Stantec to weigh the comparable development costs and impacts of three potential transit center sites for the contract price of \$264,153. The citizen committee noted above was selected shortly thereafter.

In the background to this agenda, the detailed Stantec report and the Selection Committee's rating sheets are attached. The three sites under consideration were: (a) the City's Dresser Road site; (b) a 52.8-acre Barber Greene Road site including two parcels; and (c) a 15.5-acre West Lincoln Highway site. Dead-head analyses, neighborhood impacts, acquisition costs, ecological impacts, zoning, site queueing, general topography and other features were considered for each site. **The Committee's unanimous recommendation was the Dresser Road site.**

The attached resolution would embrace the Selection Committee's recommendation and Stantec recommendation and push this process forward while funding is available. **City Council approval is strongly recommended.** ([click here for additional information](#))

6. Resolution 2022-101 Authorizing the Negotiation of an Agreement for the Provision of Wholesale Electricity for Water Wells and Water Treatment Plants in the City of DeKalb.

City Manager's Summary: As noted in Consideration #2, above, three City electrical contracts will expire towards the end of this year (Airport, Street Lighting, and Wells and Treatment Plants). After putting each contract out for bid, it is likely that a potential cost savings may be achieved by entering into a contract with an alternate energy supplier for the Wells and Treatment Plants, as opposed to defaulting to the ComEd rate.

The quotes for wholesale electricity are only valid for a one (1) day period and require a commitment within a terribly compressed period of time. The attached resolution gives the City Manager and staff the opportunity to achieve a favorable agreement for the Water Wells and Treatment Plants if an acceptable market bid is offered.

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

7. Resolution 2022-102 Authorizing the Award of a Contract to Curran Contracting Inc. in the Amount of \$213,753.36 for the Resurfacing of Ridge Drive with Staff Authority to Approve Change Orders Up to a Combined Project Total Not to Exceed \$222,000.

City Manager's Summary: The attached resolution would authorize a contract with the single bidder on the re-surfacing of Ridge Drive, from Normal Road to its west terminus. The base bid from Curran Contracting was in the amount of \$213,753.36. The resolution allows for change orders up to a not-to-exceed price of \$222,000. The funding for this project will come from the CDBG fund (Fund 280).

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

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L. ORDINANCES – SECOND READING

1. Ordinance 2022-047 Authorizing a Development Agreement with American Marketing and Publishing Company.

City Manager's Summary: On September 26, the Council approved the attached ordinance on first reading only, to allow for further public review and discussion. As noted in that meeting, the Nehring Company's impressive growth in and around the neighborhood where it was established early in the twentieth century has rubbed up against neighboring properties, which include primarily industrial or commercial-zoned properties between N. Seventh Street and N. Tenth Street, and several residential-zoned properties east of the intersection of N. Tenth Street. Recently, the company has made investments which promise further growth in production and greater wire storage needs.

A prominent and contiguous commercial property is the American Marketing and Publishing Company at 915 E. Lincoln Highway, owned by Abe Andrzejewski. American Marketing is also a success story that has long served as one of DeKalb's largest employers. In 2021, the Company employed 351 persons, which made them the eighth largest City employer on a list that included NIU, Walmart, Ferrara, 3M and others. The Company occupies much of the land between N. Ninth Street and N. Tenth Street, north of E. Lincoln Highway and south of E. Locust Street.

After the Council's public discussion on July 25, Mr. Andrzejewski made it known to City staff that the proposed closure of E. Locust Street from N. Tenth Street to N. Seventh Street to help create a "campus" for truck traffic serving Nehring Electric posed some significant challenges for the access of his employees to his parking lots. Some of his employees compete for the available parking stalls on E. Locust each morning, and on N. Ninth Street. Additionally, one of the two existing access points to the American Marketing parking lots connects with E. Locust Street. City Engineer Zac Gill, Planning Technician Doug Eaton, and the City Manager have worked collaboratively with Mr. Andrzejewski in the past month to draft some parking changes that would serve American Marketing's employees as well as Nehring Electric's employees. The proposed "solution" has the following components:

- a) The creation of about 22 perpendicular parking stalls on N. Ninth Street. This will involve the paving of the parkway but will assure two-way traffic on N. Ninth Street northward to that point where the transition to the vacated right-of-way begins (see the rendering, below).
- b) The creation of ingress and egress points for the American Marketing parking adjoining N. Tenth Street. Approximately 10 additional parking stalls will be created as the new access points are established.
- c) The preservation of the public sidewalk on the south side of E. Locust Street to afford unfettered transit for pedestrians and employees of the various adjoining businesses.

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American Marketing & Publishing Parking Enhancements



The City's cost to create the additional parking can be wrapped into the larger street maintenance projects in FY2023.

Since the September 26 Council meeting, the City staff have not received any public comments relating to this Agenda item. **City Council approval is recommended on Second Reading.** ([click here for additional information](#))

2. Ordinance 2022-048 Authorizing a Development Agreement with Nehring Electrical Works Company.

City Manager's Summary: As noted above, the City Council's July 25 discussion of a development agreement with Nehring Electrical Works Company is a creative approach to the redevelopment of an industrial area which has roots in the City's distant past. Without a TIF district to partially support redevelopment in the area, the City has been working on alternative paths to a neighborhood solution for traffic congestion and limited on-street parking.

The Nehring agreement has the following features:

- a) The Company's acquisition of the former Virgil Cook & Son properties at 119 N. Eighth Street;
- b) The City's construction of a modified cul-de-sac on N. Ninth Street about 100 feet north of E. Lincoln Highway to allow access to the rental unit at 116 N. Ninth Street and new perpendicular parking serving American Marketing. This restriction will demarcate the

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transition to the private use of E. Locust by trucks backing into Nehring Electric's principle loading dock;

- c) The City's vacation of N. Ninth Street from the new, modified cul-de-sac to E. Locust Street to allow for the unrestricted backing of tractor trailers into the prime loading dock area serving the original Company building;
- d) The City's vacation of E. Locust Street from N. Seventh Street to N. Tenth Street to create a private parking area where tractor trailers loading and unloading would not conflict with other vehicular traffic. A cross-access easement will be demarcated for the eastern portion of this vacated right-of-way to allow for access to the American Marketing parking lot from Locust Street;
- e) The City's vacation of the alley immediately west of the former Virgil Cook properties.
- f) The City's vacation of N. Eighth Street from E. Lincoln Highway to E. Locust Street for unrestricted use by Nehring Electric because the short street section would no longer serve other vehicular traffic;
- g) The City's enlargement of the storm drainage piping leaving the catch basin at N. Ninth Street and E. Locust Street at its sole expense, to eliminate chronic ponding that restricts truck movements whenever there is a large rain event.
- h) The re-zoning of the subject parcels to "PD-I," Planned Development District, Industrial, to provide the maximum flexibility for the Company as it re-arranges vital functions within the proposed complex.

The City will make a good faith effort to repair the Locust Street storm sewer this fall before the winter weather arrives. The remaining street work is planned to occur in 2023.

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

M. ORDINANCES – FIRST READING

1. Ordinance 2022-051 Amending Chapter 10 "Landlord-Tenant Regulations" as it Pertains to the Crime Free Housing Provisions.

City Manager's Summary: On September 26, the Council considered a recommendation from the City Manager to create a new Crime-Free Initiative. The initiative has been prompted by a summer of numerous weapons-related offenses and citizen complaints culminating in a series of senseless and tragic shootings on three consecutive days in late August. After considerable public input, the City Council directed the City Manager to return with an ordinance revision to replace the current "three-strike" system of crime-free housing provisions generally adopted in 2013 with a new system that would (a) compress the period required to establish a pattern of unlawful conduct in a city rental unit; (b) initiate the City's involvement once any illegal activity is identified by responding Police officers, whether or not an arrest is made on the spot; and (c) impose very stiff fines on those landlords or managers whose rental units are the location of unlawful offenses.

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Targeted Offenses.

The draft ordinance targets the following unlawful activity on rental property located in the City:

(i) Any offense defined and prohibited by Section 6-16 (Prohibited Sales and Possession) or Section 6-20 (Transfer, possessions, and consumption of alcoholic liquor; restrictions) of the Liquor Control Act of 1934, 235 ILCS 5/6-16 and 5/6-20, as may be amended from time to time.

(ii) Any offense that constitutes a felony or misdemeanor under the Illinois Criminal Code of 1961, 720 ILCS 5/1-1, et seq., as may be amended from time to time.

(iii) Any offense defined and prohibited by Chapters 38 and 52 of the City of DeKalb Municipal Code, as may be amended from time to time **(revision)**.

Criminal Nuisance Property Violation.

The occurrence of an unlawful activity on a rental property is declared a nuisance. Any person, owner, landlord, or tenant who controls rental property or a rental unit and allows, commits, maintains, permits, or fails to prevent the occurrence of an unlawful activity on the rental property or rental unit shall be liable for a criminal nuisance property violation.

The Process for Establishing a Criminal Nuisance Property Violation.

- 1) Any sworn officer of the DeKalb Police Department who responds to any unlawful activity at a rental property shall document the unlawful activity pursuant to applicable policies, procedures, ordinances, and laws, and report such unlawful activity to a shift supervisor, who shall promptly refer it to the Director of the Crime-Free Bureau (the "Director"). This referral shall be automatic regardless of whether any arrests were made, or citations were issued by the responding officers. Furthermore, the Police Chief, Fire Chief, Chief Building Official, or their respective designees shall review all police, fire, and code enforcement contacts on a daily basis for any unlawful activity at a rental property and promptly refer any such unlawful activity to the Director.
- 2) Director's Preliminary Determination. The Director shall review a referral of potential unlawful activity within 48 hours of receiving said referral and determine whether there may be a reasonable basis to believe that the referral constitutes evidence of unlawful activity at the rental property in violation of this Section (the "Preliminary Determination"). For the first offense, the affirmative defense of the Landlord or designee shall be the lack of any evidence to demonstrate an actual or deliberate intention to endanger the health or safety of any person, and the lack of any evidence demonstrating an indifference or reckless disregard for a pattern of unlawful activity (revision).
- 3) Director's Informal Notice and Meeting. If the Director determines that there may be sufficient evidence of a criminal nuisance property violation, then within 48 hours of that determination, the Director shall notify the Landlord, Tenant, or any other person who may be cited for a criminal nuisance property violation by mail, phone, email, fax, or in person about the unlawful activity and provide a report identifying the location, a copy of any

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citations or arrest reports, and the names of the tenant(s), occupant(s), or others involved (the "Director's Informal Notice"). The Director's Informal Notice shall invite the Landlord, Tenant, any other person who may be cited for a criminal nuisance property violation, and their respective attorneys to a meeting (in person or remotely), which shall occur within five (5) business days from the date of the Director's Informal Notice, with the Director and/or the Police Chief, City Manager, City Attorney, or their respective designee(s) to discuss the unlawful activity, efforts to prevent the unlawful activity, and the abatement of the unlawful activity (the "Meeting").

- 4) **Violation Notice.** If the Director issues a violation notice for a criminal nuisance property violation, the violation notice shall be given pursuant to the City's administrative hearing procedure under Chapter 17 of the City's Municipal Code. Except if there is a failure to respond to the Director's Informal Notice and Meeting, the Director shall have the discretion to issue a violation notice for a criminal nuisance property violation based on factors including, but not limited to, the nature of the unlawful activity, the existence of prior unlawful activity at the rental property, the reasonable efforts to prevent the unlawful activity, the reasonable efforts to abate the unlawful activity, and any agreement made at the Meeting. If there is a failure to respond to the Director's Informal Notice and Meeting, then the Director shall issue a violation notice.
- 5) **Administrative Hearing.** The hearing on the violation notice for a criminal nuisance property violation shall be heard by a neutral administrative hearing officer pursuant to the procedures established by Chapter 17 of the City's Municipal Code.

Remedies are defined:

Upon a finding by a preponderance of the evidence that the respondent committed a criminal nuisance property violation, the Administrative Hearing Officer may impose the following remedies:

- 1) **Abatement Order.** An abatement order requiring the respondent to abate the violation including, but not limited to, enforcing the crime-free lease addendum; compliance with a security plan to prevent the occurrence of unlawful activity at the premises; and providing reasonable security measures to prevent unlawful activity at the rental property. Such measures, among others, include alarm systems, cameras, key access for public entries, better lighting, private security, routine inspections of the rental property, criminal history, and background investigation of Tenants by a reputable agency that uses a national database, and prompt enforcement of the crime-free housing lease provision).
- 2) **First Violation.** For the respondent(s)'s first violation, a mandatory minimum fine of \$2,500.00. The order shall require the Landlord to abate the violation by enforcing the applicable Crime Free Lease provisions which may include eviction for engaging in or facilitating unlawful activity. Additionally, the order may require the respondent to abate the violation(s) by enforcing a security plan including such measures as alarms, cameras, better lighting, private security, etc.).
- 3) **Second Violation.** For the respondent(s)'s second violation within 180 days, a mandatory minimum fine of \$5,000.00 shall be imposed plus an order requiring the Landlord or designee to make restitution including relocation expenses to any tenant victim whose

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health or safety was imperiled because of the violation.

- 4) **Subsequent Violations.** For the respondent(s)'s third violation and all subsequent violations, a mandatory minimum fine of \$10,000.00 for each violation and the mandatory closure of the rental property or rental unit for at least 12 months.
- 5) **Stay Order.** An order pausing the enforcement of any of these remedies if the respondent shows sufficient proof of commencing an action to enforce the crime free housing lease provisions and obtaining an order for possession of the rental property or rental unit pursuant to the provisions of the Illinois Forcible Entry and Detainer Act (735 ILCS 5/9-101, et seq.).

Retaliation and interference with an abatement order is prohibited. No Landlord, Owner, or any other person in control of the Rental Property may retaliate against any person who complains or testifies about the alleged occurrence of an unlawful activity on the rental property, nor shall any rental agreement prohibit any such complaint or testimony, nor shall any rental agreement or lease be terminated, or Tenant evicted because of any such complaint or testimony. Furthermore, no Landlord, Owner, or any other person in control of the Rental Property may interfere with an abatement order or the City's efforts to enclose or inspect the Rental Property or Rental Unit pursuant to an abatement order.

Crime-Free Leasing Provision.

The proposed Crime-Free initiative embraces the City's existing Crime-Free Housing Lease provision (Section 10.10 of the Municipal Code) which grew out of the community discussions in 2013 and has evolved to its present status—most recently reviewed and supported by the City's Human Relations Commission. All landlords are currently required to include the following crime-free lease addendum in all rental contracts:

Crime Free Housing Lease Provision:

In consideration of the execution or renewal of a lease of the rental unit identified in this lease (the "leased premises), Landlord and Tenant agree as follows:

1. *The Tenant, any member of the Tenant's household, Tenant's guest(s), and any person under Tenant's control shall not engage in or facilitate unlawful activity in, on, at or about the leased premises.*
2. *The Tenant, any member of the Tenant's household, Tenant's guest(s), and any person under Tenant's control shall not permit the leased premises to be used for, or to facilitate, unlawful activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.*
3. *The Tenant, any member of the Tenant's household, Tenant's guest(s), and any person under Tenant's control shall not engage in or facilitate any breach of the lease agreement that jeopardizes the health, safety, and welfare of the Landlord, his agent, or other Tenant, or involves imminent or actual serious property damage.*

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4. *The Tenant is vicariously liable for the unlawful activity of any member of the Tenant's household, Tenant's guest(s), and any person under Tenant's control, whether or not the Tenant had knowledge of the activity or whether or not the household member or guest was under the Tenant's control.*
5. *In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.*
6. *For purposes of this Lease Section, unlawful activity shall mean:*
 - (i) *Any offense defined and prohibited by Section 6-16 (Prohibited Sales and Possession) or Section 6-20 (Purchase or Acceptance of Gift of Liquor by Persons Under Age 21) of the Liquor Control Act of 1934, 235 ILCS 5/6-16 and 5/6-20, or similar City of DeKalb ordinance.*
 - (ii) *Any offense that constitutes a felony or misdemeanor under the Illinois Criminal Code of 1961, 720 ILCS 5/1-1 et seq.*
 - (iii) *Any offense defined and prohibited by Chapter 52, "Offenses against Public Peace, Safety and Morals" of the City of DeKalb Municipal Code.*
7. *Violation of any of the above provisions shall be a material and irreparable violation of the lease and good cause for termination of the tenancy, provided, however, a Tenant shall not be retaliated against nor evicted when merely a victim of any unlawful act prohibited herein, but shall be responsible for the acts of his/her guests and persons under his/her control. A single violation of any of the provisions hereof shall be deemed a serious violation and material non-compliance with the lease. It is understood and agreed that a single violation shall be good cause for immediate termination of the lease. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by a preponderance of the evidence. Tenant consents to venue in any court within the county wherein the unit is located in the event Owner initiates legal action against the Tenant.*

To the extent permitted by law, Tenant agrees that service of process of any legal proceeding, including but not limited to, a special detainer or forcible detainer action, or service of any notice to Tenant, shall be effective and sufficient for purposes of providing legal service and conferring personal jurisdiction upon any Illinois court as to any Tenant, co-signor, occupant or guarantor, if served upon any occupant or other person of suitable age and discretion who is present at the premises and residing therein, notwithstanding the fact that a Tenant, co-signor, occupant or guarantor may reside at a different location other than the property address described in the lease agreement. This agreement regarding service is in addition to, and not in lieu of, any manner of service authorized under Illinois law or rule. By signing this lease, the undersigned hereby waives any objection to service carried out under the terms of this agreement.

It should be noted that a landlord is currently authorized to ban a tenant's guests or invitees who engage in conduct that the landlord reasonably believes is prohibited by the Crime Free Housing Lease Addendum.

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Additionally, tenants are expressly advised of the potential for inspection of their tenant space if deemed to be Chronically Disorderly under Chapter 52 of the City Code, or in violation of the No-Trespass Agreement and Banned List provisions of Section 10.20 of City's Municipal Code.

The failure of landlords to comply with the Crime Free Housing Lease Provision is currently punishable by a minimum fine of \$250.00. That fine would be raised to \$1,000 per day for every day that the rental agreement does not contain the Crime Free Housing Lease provision.

Finally, a "program review" of the new crime-free initiative will occur on or before the last regularly scheduled Council meeting in December 2024 (revision).

Since the September 26 Council meeting, Mayor Barnes and the City Manager appeared before a special meeting of the DeKalb Area Rental Association (DARA) at the courteous invitation of the DARA board of directors. After considerable and constructive discussion, several revisions were made to the proposed Chapter 10 amendments. These revisions are highlighted in yellow, above.

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

2. Ordinance 2022-052 Approving a Final Plat of Subdivision for Park 88 Unit 5 Along Macom Drive (Park 88 Group, LLC).

City Manager's Summary: The applicant, Park 88 Group LLC, has requested approval of a Minor Subdivision Plat for a one-lot subdivision consisting of 15.6 acres along the south side of Macom Drive, across from the Target Distribution Center. The intent is to create a lot for a future development called Project Verdant, which brings a productive use that is permitted in the Park 88 development agreement. The preliminary and final plans (engineering, landscaping, architectural elevations) for the Project Verdant site will be submitted at a later date and will require Planning and Zoning Commission and City Council review and approval per the Park 88 Agreement.

The Planning and Zoning Commission reviewed the Plat at their meeting on October 3, 2022. By a vote of 5 to 0, the Commission recommended City Council approval of a Plat of Subdivision for Park 88 Unit 5 dated 8-15-22 prepared by Jacob & Hefner Associates as shown in the attached staff report.

City Council approval of the Planning & Zoning Commission recommendation is requested. ([click here for additional information](#))

3. Ordinance 2022-053 Amending Chapter 51 "Traffic", Schedule C "Parking Prohibited", as it Pertains to Changing the Tow Zone Time from 2:00 a.m. to 12:00 a.m.

City Manager's Summary: At the request of the Police Department, the threshold for the towing of illegally parked vehicles in designated and posted "Safe Street" locations would be moved from 2:00 a.m. to 12:00 midnight if this revision is approved. As Chief Byrd writes in his background memorandum, the affected streets in this code initiative course through some

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of the most densely populated areas of the community and represent the areas of the highest concentration of Police calls for service and violent crime within the City of DeKalb. They also represent the residential areas that have been historically used for impromptu roving parties consisting of a large number of vehicles and individuals. These individuals flood an area, park improperly so to impede the ingress and egress of vehicles and engage in nuisance and criminal activities such as underage alcohol consumption, the playing of loud music, littering, property damage, drug use, fights, and incidents of shots being fired.

In recent months, the incidents of crime and roving parties have been happening earlier in the evening, as opposed to after the 2 a.m. bar closing time that historically was the basis for the later time period for authorized Police tows. The majority of the enumerated streets feature apartment buildings that provide sufficient parking for their tenants and guests in off-street parking lots.

An earlier allowance for Police tows will help disband the nuisance and diminish risks associated with pop-up parties that overflow into public streets carrying the “Safe Street” parking restrictions. **City Council approval is recommended.** ([click here for additional information](#))

4. Ordinance 2022-054 Amending Chapter 51 “Traffic”, Schedule C “Parking Prohibited”, as it Pertains to Establishing Resident Only Parking on Locust Street.

City Manager’s Summary: The attached ordinance revision is a companion to the Nehring and American Marketing ordinances above. This revision would restrict parking on the south side of E. Locust Street, from N. Tenth Street to the N. Eleventh Street, for the benefit of residents and their guests. A similar adjustment was successfully implemented for residents on Barb Boulevard and would eliminate the annoyance of semi-trailer parking in front of resident homes in this area.

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

- 1. Approval to Hold an Executive Session in Order to Discuss the Purchase or Lease of Real Property as Provided for in 5 ILCS 120/2(c)(5).**

P. ADJOURNMENT

[OCTOBER 10, 2022, REGULAR MEETING AGENDA PACKET](#)

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