



**DEKALB CITY COUNCIL AGENDA
AUGUST 10, 2020
6:00 P.M.**

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

REGULAR CITY COUNCIL MEETING

COVID-19 Notice: This meeting will be conducted in-person with a physically present quorum and open to the public. The corporate authorities of the City of DeKalb intend to conduct this meeting in compliance with all applicable social distancing and public health requirements. All persons attending this meeting in-person shall be required to wear protective face masks/coverings. Furthermore, the corporate authorities of the City of DeKalb intend to conduct this meeting pursuant to Illinois Governor JB Pritzker's Executive Order 2020-43 dated June 26, 2020 (the "Executive Order"), which prohibits gatherings of more than 50 people, unless the City of DeKalb determines that it is necessary to invoke the Governmental Functions exemption contained in Section 4(c) of the Executive Order "to ensure the operation of government agencies or to provide for or support the health, safety and welfare of the public."

As a convenience to the public, the City of DeKalb may also provide video, audio, telephonic or internet access for the public to monitor this meeting. The provision of any such remote means of access is not intended to provide for attendance by a means other than physical presence due to the COVID-19 public health emergency, nor is it intended to provide an opportunity for the public to address public officials, make public comment or otherwise participate in the meeting.

Persons wishing to provide public comment or otherwise address public officials in person during this meeting must comply with all applicable rules governing the conduct of this meeting including, but not limited to, the aforementioned social distancing and face covering requirements.

The City of DeKalb is providing the following conveniences for the public to monitor and participate in this meeting:

- Persons wishing to view the meeting from home or elsewhere can tune in to Channel 14 or by following the link provided [here](#).
- For those choosing to participate via Zoom that wish to comment during the public participation portion of the meeting, or prior to Council's discussion of a particular item, please click on the link provided [here](#). You will need to add in the Comment Section of the form that you wish to address Council verbally. Note that all submissions must be received no later than 5:00 p.m. on the Friday prior to the meeting to ensure your name is added to the list of speakers.
- **Zoom Information**
Join Zoom Meeting: <https://us02web.zoom.us/j/87520018519?pwd=MHI1bndqM2FnZm1NNVNEdWJuYnUxUT09>
Meeting ID: 875 2001 8519, Passcode: 263972
One tap mobile: +13126266799,,87520018519#,,,,,0#,,263972# US (Chicago)
- Those unable to attend the meeting in person or remotely that wish to comment on a particular item on the agenda, or on another topic, may forward their comments by clicking on the link provided [here](#). Note that all submissions must be received no later than 5:00 p.m. on the Friday prior to the meeting to ensure dissemination to the City Council before the meeting convenes.

A. CALL TO ORDER AND ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF THE AGENDA

D. PUBLIC PARTICIPATION

E. PRESENTATIONS

1. [Proclamation: Bicycle Friendly Community, August 10, 2020.](#)

F. APPOINTMENTS

1. [Appointment of Kathleen Clark to the Citizens' Environmental Commission for the Completion of a Two-Year Term through December 31, 2021.](#)
2. [Appointment of Lance McGill to the Finance Advisory Committee for the Completion of a Four-Year Term through December 31, 2023.](#)
3. [Appointment of Dytania Washington to the Finance Advisory Committee for the Completion of a Four-Year Term through December 31, 2023.](#)
4. [Appointment of Bill McMahon to the Planning and Zoning Commission for the Completion of a Four-Year Term through December 31, 2024.](#)
5. Reappointment of Sharon Blake to the DeKalb Public Library Board for the Completion of a Three-Year Term through June 30, 2023.
6. Reappointment of Joan Burger to the DeKalb Public Library Board for the Completion of a Three-Year Term through June 30, 2023.
7. Reappointment of India Washington to the DeKalb Public Library Board for the Completion of a Three-Year Term through June 30, 2023.

G. CONSENT AGENDA

1. [Minutes of the Regular City Council Meeting of July 27, 2020.](#)
2. [Minutes of the Joint Review Board of January 24, 2020.](#)
3. [Minutes of the Joint Review Board of June 26, 2020.](#)
4. [Accounts Payable and Payroll through July 27, 2020, in the Amount of \\$1,686,452.17.](#)

H. PUBLIC HEARINGS

1. Public Hearing: First Amendment to the Amended and Restated Park 88 Development Agreement to Remove a 3.3 Acre "Public Use" Site in the Park 88 Development Located Along Macom Drive.

City Manager's Summary: On July 22, 2019, Council unanimously approved an amendment to the annexation and development agreement for Park 88 that included a new concept plan and updated standards to reflect market changes and revisions to city codes since the business park was first annexed and rezoned in 2004. The new concept plan retained a 3.3-acre site at the "elbow" of Macom Drive at the west end of the park that had been dedicated in 2004 for some future city use such as a water tower or fire station.

Presently, the 10-acre platted lot immediately south of this dedicated acreage is of interest to a commercial business and the 3.3-acre site would provide the best access to that vacant land. Since no city use has been identified as affordable or desirable on the dedicated site in the past 16 years, the City staff recommend waiving the requirement in the original and amended development agreement that this lot be conveyed to the City. [\(Click here for additional information\)](#)

I. CONSIDERATIONS

1. Creating a New Liquor License Category "Laundromats".

City Manager's Summary: Jim Mason of Mason Properties has approached the City about his interest in opening a video gaming establishment in the Mega Grande Laundromat he owns at 1387 S. 4th Street. The laundromat has been in the location since 2015 and comprises 8,529 square feet. The proposed video gaming area would be located in an existing 242 square foot space near the entrance of the laundromat that is currently being used as a lounge area for laundromat patrons. Per state law, video gaming must include liquor sales, and a liquor sales area is proposed for the video gaming area. The use would not be categorized as a video gaming establishment (stand-alone facility) as defined in the UDO and therefore would not require a special use permit. The video gaming and liquor sales areas would be accessory to the laundromat use. No separate entrance or exit to the video gaming and liquor sales area is proposed. A floor plan is provided as well as some images which show the proposed video gaming and liquor sales area in relation to the existing laundromat.

There is no liquor license classification in the City's Municipal Code that would allow liquor sales in laundromats. Some smaller Illinois communities have permitted video-gaming in laundromats to raise local revenues. The video-gaming increases foot traffic and encourages patrons to remain on-site for extended periods. It appears that the liquor licenses in those communities are not tied to the laundromat use itself, but to the revenue raised from on-premises or take out consumption. In contrast, the City of DeKalb's liquor license classifications are tied more closely to the principal use (e.g. packaged liquor store, restaurant, bar, hospitality).

City Council direction is requested. [\(Click here for additional information\)](#)

2. Temporary Fixed Route Service Reduction within the DeKalb Urbanized Area.

City Manager's Summary: Due to an operator shortage related to the coronavirus pandemic, the City's contracted fixed route transit service provider, Transdev Services Inc., DBA Huskie Line, will need to operate a reduced regular service schedule beginning Monday, August 24. The reduced service schedule is expected to last

approximately eight (8) weeks. While most of the fixed route service will operate between 7:00 a.m. and 10:00 p.m., Monday through Sunday, there will be decreased frequency of service on various routes including Route 17 and Route 18. Route 19 which serves Park 88 has shown increased ridership in recent weeks and will not be revised. A copy of the temporary fixed route transit service reduction schedule was made available for public inspection on the City of DeKalb website beginning Monday, August 3, 2020.

Per federal policy, **the City Manager recommends a Council consensus on this proposed change** so the appropriate noticing can be made before the reduction begins on August 24. ([Click here for additional information](#))

J. RESOLUTIONS

1. **Resolution 2020-087 Authorizing Payment to Irving Construction Company, Inc. in the Amount of \$45,000 for the Concrete Reconstruction of Palmer Court in Conjunction with the Egyptian Theatre Renovation Project.**

City Manager's Summary: The City's street maintenance program for 2020 originally included minor hot-mix asphalt repairs to Palmer Court by the City once the addition to the Egyptian was completed. As the Council is aware, the discovery last summer of multiple unforeseen Com Ed and other underground utilities in the drivable portion of Palmer Court led to extraordinary utility repairs that basically "blew up" all of the former concrete pavement. In addition, the relocation of many utility lines (e.g. power, water, sanitary, storm sewer) led the City to drop the idea of a less expensive and also less durable asphalt surface in favor of the restoration of a concrete surface over the many underground excavations.

The Egyptian Theatre agreed to take on the expense of the removal of the remaining patchwork of concrete and the installation of an appropriate aggregate subgrade; the City took on the cost of the concrete placement. The Theatre's general contractor, Irving Construction, provided the City Engineer a very competitive price for the concrete paving if it could be worked into the installation of the Theatre's concrete sidewalk and patio work in June. The attached contract reimburses Irving Construction.

The City's overall cost of \$45,000 is covered by Fund 400 (400-00-00-83100). City Council approval is recommended. ([Click here for additional information](#))

2. **Resolution 2020-088 Authorizing an Expenditure from the Local Allocation of REBUILD IL Bond Revenues for Bridge Replacement Engineering in the Amount of \$650,000.**

City Manager's Summary: The City of DeKalb has been accumulating an MFT fund balance to cover its portion of the engineering and construction costs for the upcoming Lucinda Avenue and N. First Street bridge structures in 2022. The 2019 State Capital Bill created a REBUILD IL Bond issue, a portion of which is allocated to municipalities. These bond monies cannot be spent on conventional street maintenance but can be used for the bridge repair projects.

The attached resolution dedicates the first of several REBUILD IL payouts (\$650,000) to the bridge projects over the next few years. The total is expected to be about \$2,880,000 through 2022. These monies will in turn free up our annual MFT allocations for street maintenance rather than bridge repair.

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

3. Resolution 2020-089 Approving a Settlement Agreement and the Acceptance of a Deed in Lieu of Foreclosure for 1015 Blackhawk Drive (Campus Cinema).

City Manager's Summary: For several years, the City has been involved in litigation regarding the Campus Cinema property located at 1015 Blackhawk Drive. The most recent litigation has involved the City's action to demolish the Campus Cinema building due to its dangerous and unsafe condition (e.g., partial roof collapse, water infiltration, mold, and inoperable mechanical systems). The property has been a blight in the City's Annie Glidden North area for many years because of its vacant, dilapidated, and unsafe condition, which has been an attractive nuisance for criminal activity.

During the course of the demolition litigation, the parties produced facts in discovery which established that (1) the cost to demolish the building and remediate environmental hazards on the property should not exceed \$375,000; and (2) as of April 2020, the fair market value of the property without the building exceeded \$500,000.

To avoid the time, expense, and uncertainty of further litigation, and to encourage the potential for future redevelopment of the property, the parties agreed to a settlement pursuant to the following terms: (1) the City shall pay the property's current owner \$375,000 to demolish the building and remediate the environmental hazards on the property by approximately October 31, 2020; (2) a consent judgment in the City's favor; (3) the City's lien on the property; (4) the conveyance of the property to the City by a deed in lieu of foreclosure of the City's lien by approximately October 31, 2020; and (5) the release of all claims relating to the property. The deed in lieu of foreclosure is necessary to void the property taxes on the property, which will save the City from paying potentially over \$25,000 in property taxes.

The attached Settlement Agreement further provides that if the property's current owner does not demolish the building in a timely fashion, then the City may do so without being obligated to pay the property's current owner, and the agreement to convey the property to the City by deed in lieu of foreclosure shall proceed regardless of who actually demolishes the building.

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

4. Resolution 2020-090 Authorizing a Bar/Hospitality Liquor License for El Jimador Mexican Grill, LLC, Located at 260 E. Lincoln Highway.

City Manager's Summary: El Jimador Mexican Grill, soon to be located at 260 E. Lincoln Highway (the former O'Leary's location), has submitted an application for a bar/hospitality liquor license, to include supplemental licensing for live entertainment and catering. The application has been reviewed and received a positive recommendation from the Liquor Commissioner and Acting Police Chief. The liquor license will be considered "conditional" until the requirements laid out in the resolution

are met. A conditional liquor license will allow the business to apply for their State of Illinois liquor license, which is required prior to ordering liquor and supplies.

Upon approval of the liquor license, the City will receive an initial issuance fee of \$10,766 for the liquor license and \$377 each for the live entertainment and catering licenses. The annual renewal fee for the liquor license will be \$3,553.

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

K. ORDINANCES – SECOND READING

None.

L. ORDINANCES – FIRST READING

- 1. Ordinance 2020-050 Amending Chapter 4 “Police Department”, Section 4.13 “Police Pension Board,” as it Pertains to the Residency of Members of the Police Pension Board Appointed by the Mayor.**

City Manager’s Summary: As Mayor Smith briefly explained at the last regular Council meeting, he wishes to appoint Joyce Stuepegia as a Police Pension Fund trustee in view of her previous service to the pension board. Ms. Stuepegia has relocated and no longer resides in the City of DeKalb. The proposed ordinance amends the City Code to resolve any potential uncertainty as to whether the Mayor may appoint a non-resident as a member of the Police Pension Board.

As the City Attorney writes in his attached memorandum, Article 3 of the Illinois Pension Code does not expressly prohibit the appointment of non-residents as members of a municipality’s police pension board. Accordingly, the proposed ordinance is neither contrary to, nor inconsistent with, the Illinois Pension Code. See *Board of Trustees of the Barrington Police Pension Fund v. Barrington Ethics Board*, 287 Ill.App.3d 614 (1st Dist. 1997). In addition, since members of the Police Pension Board are not considered officers of the City within the meaning of Article VII, Section 6(f) of the Illinois Constitution, the City may adopt this ordinance without prior approval by referendum. See *Paglioni v. Police Board of the City of Chicago*, 61 Ill.2d 233 (1975).

The proposed ordinance amends the City Code to expressly allow the Mayor to appoint a non-resident as a member of the Police Pension Board. **City Council direction is recommended.** ([Click here for additional information](#))

- 2. Ordinance 2020-051 Amending Chapter 8 “City Officials and Employees Ethics Act” as it Pertains to the Workplace Transparency Act.**

City Manager’s Summary: In 2019, the Illinois General Assembly passed the Workplace Transparency Act, Public Act 101-0221. The Act requires units of local government to provide annual sexual harassment prevention training for all public employees and a mechanism for the reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of the governmental unit. The Act does not appear to expressly require that elected officials complete annual sexual harassment prevention training, but it is recommended that they do so.

The proposed amendment requires that all City employees and officials complete the annual sexual harassment prevention training required by the Act. The Illinois Department of Human Rights has published a model sexual harassment training program at <https://www2.illinois.gov/dhr/Training/Documents/IDHR-SHPT-2020-04-APR-V11.pdf>.

Additionally, the proposed amendment provides that allegations of sexual harassment made against an elected official of the City by another elected official of the City shall be reported to the City's Ethics Advisor, who is the City Manager. Upon receipt of said allegations, the Ethics Advisor shall retain a qualified individual or entity to perform the independent review. The General Assembly contemplated that the independent review would be conducted by the public body's independent inspector general; however, the City, like most units of local government, does not have an independent inspector general. Thus, this independent review should probably be made by a private entity, such as the City's labor attorney. The final outcome of the independent review will be reported to the City's corporate authorities for their consideration and potential action.

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

3. Ordinance 2020-052 Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.05 "Criminal Housing Management."

City Manager's Summary: Last summer, a series of arsons occurred at multiple apartment complexes owned by Hunter Properties. The most devastating of these arsons occurred on July 9, 2019 at the apartment complex located at 808 Ridge Drive. That fire injured several people and displaced about 140 more. Residents jumped out of windows to escape to safety. Subsequent investigation discovered multiple building code violations including, among others, missing smoke detectors, faulty or missing emergency lighting and exit signs, "spent" fire extinguishers and many apartment entry doors that had no fire rating. Clearly, the property's owner and managing agent recklessly permitted these dangerous and unsafe conditions which endangered the health and safety of the tenants and community.

Unfortunately, the existence of such dangerous and unsafe conditions is not limited to the apartment complex at 808 Ridge. Within the last three years, the City has initiated *thousands* of citations for similar violations involving other commercial and residential real estate throughout the City owned by Hunter Properties and others. It appears that this problem may be getting worse due to COVID-19 and the related economic downturn.

The prosecution of these citations simply as building code violations has attained mixed results in compelling property owners to remediate truly dangerous and unsafe conditions. The prosecutions are inherently reactive, and the existing penalties are not a sufficient deterrent to encourage irresponsible owners and managers of large rental complexes from taking the necessary action to prevent or remedy such dangerous and unsafe conditions.

There is the potential for criminal prosecution under the State's criminal housing management law (720 ILCS 5/12-5.1). This State law makes it a criminal offense for any owner or manager to recklessly permit the physical condition or facilities of the residential real estate to become or remain in any condition which endangers the

health or safety of any person. More important, this State law allows the State's Attorney to obtain extraordinary injunctive relief to remedy the dangerous condition, such as an order restraining the owner from collecting rents until the condition is remedied, or an order directing the owner to pay all rents into an escrow account with the escrow funds to be used to satisfy the reasonable costs of the necessary repairs to the property (see 720 ILCS 5/12-5.2). Prosecutions under the State's criminal housing management law are controlled by the State's Attorney. The burden of proof is also tougher to establish than a civil ordinance violation. Accordingly, home rule municipalities, like the City of Evanston, have adopted a civil ordinance for criminal housing management.

The attached ordinance amends Chapter 52 of the City's Municipal Code to add the civil petty offense of criminal housing management. While the proposed ordinance is patterned after the State criminal housing management law, there are some notable differences. First, this is a civil offense with no sentence of imprisonment for a violation. Second, the standard of recklessness is similar to the civil standard of "willful and wanton conduct", which is akin to the standard for punitive damages in a civil personal injury case. This standard is more difficult to prove than the civil standard for ordinary negligence, but it is less onerous than the criminal standard of recklessness. Third, the existence of extraordinary property maintenance code violations is prima facie evidence of a dangerous or unsafe condition on the property, which means it's not necessary to prove that the condition actually caused someone's injury. Fourth, there is a mandatory minimum fine of \$1,000 for the first offense, and a mandatory minimum fine of \$5,000 for any subsequent offense committed within 1 year of the first offense. Fifth, the violator must make restitution to any victim whose health or safety was actually endangered because of the violation. Sixth, the "Property Improvement Trust Account" (i.e., the escrow account) is managed by the City. The ordinance provides that the costs of maintaining the escrow account shall be paid by the violator as costs of the prosecution.

Finally, the proposed ordinance does not allow tenants to stop paying rent, nor does it create a private cause of action for a tenant's suit. However, tenants are encouraged to first contact the property's owner or manager with complaints of any allegedly dangerous and unsafe conditions, and then contact the City with any such complaints that are not promptly remedied. Complaints to the City should include photographs or videos of the allegedly dangerous condition. Notably, the ordinance protects such tenant complaints from retaliation by the property's owner or manager. Tenants are further encouraged to take all other civil remedies available to them with respect to any dangerous or unsafe condition on the property.

City Council approval is recommended on first reading only, to allow for comment by local landlords and tenants. [\(Click here for additional information\)](#)

4. Ordinance 2020-053 Approving a First Amendment to the Amended and Restated Park 88 Development Agreement to Remove a 3.3 Acre "Public Use" Site in the Park 88 Development Located Along Macom Drive.

City Manager's Summary: As explained in the Public Hearing portion of this Agenda, Mark Goode, the principal of Park 88 Group, has requested a waiver from the requirement in the original and amended Park 88 annexation and development

agreement that a 3.3 acre site be set aside for an undefined future public purpose. This ordinance would remove that requirement from the agreement.

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

M. REPORTS AND COMMUNICATIONS

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

N. EXECUTIVE SESSION

None.

O. ADJOURNMENT

[FULL AGENDA PACKET](#)