

**MINUTES  
CITY OF DEKALB  
REGULAR CITY COUNCIL MEETING  
MARCH 8, 2021**

The City Council of DeKalb, Illinois held a Regular City Council meeting on March 8, 2021, in the Yusunas Meeting Room of the DeKalb Public Library, 309 Oak Street, DeKalb, Illinois.

**A. CALL TO ORDER AND ROLL CALL**

Mayor Smith called the meeting to order at 6 p.m.

City Clerk Lynn Fazekas (attending remotely) called the roll, and the following members of City Council were present: Aldermen Carolyn Morris, Bill Finucane (attending remotely), Tracy Smith, Greg Perkins, Scott McAdams, Mike Verbic, and Tony Faivre; and Mayor Jerry Smith.

Staff present included: City Manager Bill Nicklas, City Attorney Matt Rose, and Utilities, Engineering & Transportation Director Bryan Faivre.

**B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES**

Mayor Smith led the pledge.

**C. APPROVAL OF THE AGENDA**

Mayor Smith solicited requests for additions and deletions to the agenda. There were none.

**MOTION**

Alderman Faivre moved to approve the agenda. Alderman Morris seconded.

**VOTE**

Motion carried 8-0 on roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: none. Mayor Smith declared approval of the agenda.

**D. PUBLIC PARTICIPATION**

Mayor Smith read a comment submitted by J.J. Wett, who asked that Council take windy days into consideration in discussing the question to limit open burning in DeKalb.

**E. PRESENTATIONS**

1. United States Census Bureau Recognition.

City Manager Nicklas said local efforts led to results that exceeded the national response rate to the census. He credited several staff and the mayor for their contributions.

2. Update on the Police Chief Search.

City Manager Nicklas provided an overview of the search process and announced the hiring of David Byrd as the City's new chief of police.

## **F. APPOINTMENTS**

There were none.

## **G. CONSENT AGENDA**

1. Minutes of the February 22, 2021 Regular City Council Meeting.
2. Accounts Payable and Payroll through March 8, 2021 in the Amount of \$6,640,716.20.

Mayor Smith read each item of the consent agenda.

## **MOTION**

Alderman Perkins moved to approve the consent agenda. Alderman Morris seconded.

## **VOTE**

Motion carried 8-0 on roll call vote. Aye: Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Morris, Mayor Smith. Nay: none. The mayor declared the consent agenda passed.

## **H. PUBLIC HEARINGS**

None.

## **I. CONSIDERATIONS**

1. Consideration of a Citizen's Environmental Commission Request to Amend the City's Open Burning Codes and Ordinances.

City Manager Nicklas explained the recommendation is to prohibit the burning of leaves and yard waste, but not outdoor cooking or fire pits used responsibly. He cautioned the City does not have the staff or training to test air quality.

Council members discussed the issues involved, including greenhouse gas emissions, bonfires and other large fires, combustibles that produce smoke, and enforceability of a ban. Attorney Rose said the legal standard is whether a fire would be obnoxious to a reasonable person and, if so, it would constitute a nuisance, which is easier to enforce.

The aldermen narrowed the scope of a ban to grass and leaf burning since yard waste pickup is available as an alternative and because these materials in particular can produce heavy smoke.

Mayor Smith summarized and confirmed Council's decision to proceed.

2. 2021 Liquor License Renewal Update.

City Manager Nicklas reported that restaurants and bars are still struggling due to pandemic-related issues. He reminded Council that license holders have been allowed to pay for their licenses in installments and said they would like to continue this for one more licensing cycle beginning in May.

Mayor Smith asked if there was consensus to continue the arrangement. No one voiced objections.

3. Consideration of the Contractor Bids for the Painting and Repair of the South Water Tower.

City Manager Nicklas summarized action so far, where Council had rejected all bids the previous summer and began the bidding process again in December to be ready to start work with return of better weather. He reported two new state-level developments affecting the process, one being a law that requires hiring of 90% Illinois workers when an unemployment threshold is reached, the other a new training rule for corrosion repair. Mr. Nicklas said following both would disqualify the three lowest bidders.

Mandy Ganieany, of Painters' District Council 30 in Aurora, said she had submitted an 82-page document in February that listed both the Illinois Preference Act and the new IEPA standards. She said she believes both would apply to this project and therefore the lowest responsible bidder would be Era Valdivia.

Clark Johnson said he wanted to speak in support of the intent of the two laws. He said the community water supply law is about the coating application specialist certification, which requires training in technique and safety in corrosion protection and is a third-party certification for anyone working on a water tower. Mr. Johnson also remarked that the

Illinois Preference Act has been on the books for years but was dormant until triggered last summer by two consecutive months of unemployment above 5%.

Alderman Faivre said he would like to hire locally but wanted to know if the City had asked the three lower bidders if they could meet the requirements. He also questioned the oversight provided by the consulting engineer, which only rejected one of the low bids.

Alderman Smith commented that he believed local preference ordinances were overturned by the Supreme Court and asked how the state is allowed to have one.

City Attorney Rose commented that the state decided quite recently to enforce the preference law. He suggested Council could reject the bids and negotiate directly with its preferred firm.

Council members debated whether to reject the bids and, if so, whether to restart the process or to negotiate. City Manager Nicklas said there is a time constraint; he said if one tower is out of service, it would not be a problem, but if a second issue came up at the same time it could conceivably affect water pressure and the City will soon be contractually obligated to Facebook to maintain water pressure at a certain level. The city manager also suggested the three lowest bidders would probably not be paying prevailing wage, which he said would be asking for a lawsuit against the City.

Several aldermen voiced support for the negotiation strategy. Mayor Smith closed discussion by asking the city manager and city attorney to craft a solution would meet all legal requirements.

## **J. RESOLUTIONS**

1. Resolution 2021-021 Authorizing the Lease Purchase of a Single-Axle Dump Truck Through Rush Truck Center Based on the State Bid Contract Price in an Amount Not to Exceed \$154,526.

Mayor Smith read the resolution by title only.

### **MOTION**

Alderman Smith moved to approve the resolution. Alderman McAdams seconded.

City Manager Nicklas observed the total cost would be spread over the term of the lease.

### **VOTE**

Motion carried 8-0 on roll call vote. Aye: Smith, Perkins, McAdams, Verbic, Faivre, Morris, Finucane, Mayor Smith. Nay: none. Mayor Smith declared the resolution approved.

2. Resolution 2021-022 Authorizing an Architectural Improvement Program (AIP) Economic Incentive for the Egyptian Theater, 135 N. Second Street, in the Amount of \$4,314.

Mayor Smith read the resolution by title only.

#### MOTION

Alderman Finucane moved to approve the resolution. Alderman McAdams seconded.

#### VOTE

Motion carried 8-0 on roll call vote. Aye: Perkins, McAdams, Verbic, Faivre, Morris, Finucane, Smith, Mayor Smith. Nay: none. Mayor Smith declared the resolution passed.

### **K. ORDINANCES – SECOND READING**

There were none.

### **L. ORDINANCES – FIRST READING**

1. Ordinance 2021-009 Publishing the Official Zoning Map of the City of DeKalb.

Mayor Smith read the ordinance by title only.

#### MOTION

Alderman Faivre moved to approve first reading. Alderman Morris seconded.

#### VOTE

Motion carried 8-0 on roll call vote. Aye: McAdams, Verbic, Faivre, Morris, Finucane, Smith, Perkins, Mayor Smith. Nay: none.

#### MOTION

Alderman Morris moved to waive second reading and approve the ordinance. Alderman McAdams seconded.

#### VOTE

Motion carried 8-0 on roll call vote. Aye: Verbic, Faivre, Morris, Finucane, Smith, Perkins, McAdams, Mayor Smith. Nay: none. The mayor declared the ordinance passed.

2. Ordinance 2021-010 Amending Chapter 9 “Establishment of Fees,” Section 9.04 “Ambulance Service Fees,” in Order to Reflect Actual Costs of Providing Emergency Medical Transportation Service.

Mayor Smith read the ordinance by title only.

MOTION

Alderman Verbic moved to approve first reading. Alderman Faivre seconded.

VOTE

Motion carried 8-0 on roll call vote. Aye: Faivre, Morris, Finucane, Smith, Perkins, McAdams, Verbic, Mayor Smith. Nay: none.

MOTION

Alderman Perkins moved to waive second reading and approve the ordinance. Alderman Faivre seconded.

VOTE

Motion carried 8-0 on roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: none.

3. Ordinance 2021-011 Amending Chapter 23 “Unified Development Ordinance,” Article 5.03 and Article 5.04 by Allowing Two-Family Attached Dwellings and Multiple Family Attached Dwellings Not Meeting the Minimum Lot Area Requirements as a Special Use in the “TFR” Two-Family Residential District and the “MFR1” Multi-Family Residential District.

Mayor Smith read the ordinance by title only.

MOTION

Alderman McAdams moved to approve first reading. Alderman Verbic seconded.

VOTE

Motion carried 8-0 on roll call vote. Aye: Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Morris, Mayor Smith. Nay: none.

MOTION

Alderman Morris moved to waive second reading and approve the ordinance. Alderman Faivre seconded.

VOTE

Motion carried 8-0 on roll call vote. Aye: Smith, Perkins, McAdams, Verbic, Faivre, Morris, Finucane, Mayor Smith. Nay: none. Mayor Smith declared the ordinance approved.

4. Ordinance 2021-012 Approving a Special Use Permit for Existing Antennas and Associated Equipment on Top of the 16-Story Building at 507 E. Taylor Street to Allow for an Upgrade of Communication Equipment (US Cellular).

Mayor Smith read the ordinance by title only.

#### MOTION

Alderman Morris moved to approve first reading. Alderman Verbic seconded.

#### VOTE

Motion carried 8-0 on roll call vote. Aye: Perkins, McAdams, Verbic, Faivre, Morris, Finucane, Smith, Mayor Smith. Nay: none.

#### MOTION

Alderman Verbic moved to waive second reading and approve the ordinance. Alderman McAdams seconded.

#### VOTE

Motion carried 8-0 on roll call vote. Aye: McAdams, Verbic, Faivre, Morris, Finucane, Smith, Perkins, Mayor Smith. Nay: none. Mayor Smith declared the ordinance approved.

### **M. REPORTS AND COMMUNICATIONS**

1. Council Member Reports

Each alderman welcomed/congratulated Police Chief Byrd.

Alderman Finucane said the census will mean redistricting City wards, and he urged Council to start planning now to do it as neutrally as possible. He also congratulated the county for reaching the milestone of 15,000 doses of vaccine administered and said he would receive his second dose the next day.

Alderman Faivre reminded residents to watch for pooling water and to ensure storm drains are not blocked.

Mayor Smith asked others to join him in objecting to further cuts to cities' shares of the state's Local Government Distributive Fund (LGDF).

2. City Clerk Report

City Clerk Fazekas gave no report.

3. City Manager Report

City Manager Nicklas thanked David Byrd for accepting the position of police chief.

**N. EXECUTIVE SESSION PURSUANT TO 5 ILCS (120/2)**

1. Approval to Hold an Executive Session in Order to Discuss Executive Session Minutes as Provided for in 5 ILCS 120/2(c)(21).

Mayor Smith read the item to be authorized for discussion in executive session.

**MOTION**

Alderman Faivre moved to recess for executive session. Alderman Smith seconded.

The mayor said due to privacy and legal concerns, no remote access to the executive session would be provided.

**VOTE**

Motion carried 8-0 on roll call vote. Aye: Verbic, Faivre, Morris, Finucane, Smith, Perkins, McAdams, Mayor Smith. Nay: none. Mayor Smith declared a recess at 8:12 p.m.

**O. ADJOURNMENT**

**MOTION**

Following conclusion of executive session, Alderman McAdams moved to adjourn the regular meeting of Council. Alderman Perkins seconded.

**VOTE**

Motion carried 7-0-1 on roll call vote. Aye: Morris, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: none. Absent: Finucane. Mayor Smith declared adjournment at 8:26 p.m.

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LYNN A. FAZEKAS, City Clerk

Approved by City Council on March 22, 2021.