



**DEKALB CITY COUNCIL AGENDA
MAY 11, 2020
6:00 P.M.**

DeKalb Municipal Building
City Council Chambers
Second Floor
200 S. Fourth Street
DeKalb, Illinois 60115

REGULAR CITY COUNCIL MEETING

Please Note: On March 16, 2020, Illinois Governor JB Pritzker issued executive order 2020-07 which declared that during the duration of the Gubernatorial Disaster Proclamation pertaining to the coronavirus outbreak, “the provisions of the Open Meetings Act, 5 ILCS, requiring or relating to in-person attendance by members of a public body are suspended. Specifically, (1) the requirement in 5 ILCS 120/2.01 that ‘members of a public body must be physically present’ is suspended; and (2) the conditions in 5 ILCS 120/7 limiting when remote participation is permitted are suspended.” The executive order further states that when a public meeting is considered necessary by the governing body, “public bodies are encouraged to provide video, audio, and/or telephonic access to meetings to ensure members of the public may monitor the meeting, and to update their websites and social media feeds to keep the public fully apprised of any modifications to their meeting schedules or the format of their meetings due to COVID-19, as well as their activities relating to COVID-19.” The City of DeKalb has taken prudent steps to assure that virtual Council member attendance and public access are assured within the intent of the Governor’s executive order.

Citizens wishing to view the meeting from home or elsewhere can tune in to Channel 14 or by following the link provided [here](#).

Accommodations have been made for citizens to comment on a topic listed on the agenda (or a topic not listed on the agenda) by clicking on the link provided [here](#). Comments will be read by the Mayor at the appropriate time during the meeting.

- A. CALL TO ORDER AND ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF THE AGENDA**
- D. PUBLIC PARTICIPATION**

Assistive services available upon request.

Hearing assistance devices are available in the Information & Technology Office, which is located to the right, just before entering Council Chambers.

E. PRESENTATIONS

1. [Proclamation: National Police Week, May 10 – 16, 2020.](#)
2. [Proclamation: National Emergency Medical Services \(EMS\) Week, May 17 – 23, 2020.](#)

F. APPOINTMENTS

None.

G. CONSENT AGENDA

1. [Minutes of the Regular City Council Meeting of April 27, 2020.](#)
2. [Accounts Payable and Payroll through May 11, 2020 in the Amount of \\$2,188,285.65.](#)
3. [FY2020 Human Services Funding First Quarter Report.](#)
4. **Hospitality Recovery Program Update.**
Estimates of the impact of the COVID-19 pandemic on City finances are provided in detail in the Committee of the Whole agenda. Once the restaurant/bar sales for April are known, a template will be used to track actual sales and related tax obligations going forward. The first \$3,000 in taxes collected from actual sales at a particular establishment during the period April 1 through December 31 are forgiven.

H. PUBLIC HEARINGS

None.

I. CONSIDERATIONS

1. **Consideration of the Prevailing Wage Standard for Tax Increment Financing Assistance to Private Developments.**

City Manager's Summary: The City of DeKalb annually approves a prevailing wage ordinance pursuant to state statute that governs the wages that a contractor or subcontractor is required to pay to all laborers, workers and mechanics who perform work on public works projects. According to the most recent guidance from the Illinois Department of Labor (see attached), a private project that is funded by tax increment financing is not covered by the Illinois Prevailing Wage Act. However, if the City were to perform public works that are funded by TIF funds, the contractors receiving TIF monies in behalf of the City would be subject to the Act.

An Appellate Court opinion in 2009 held that TIF increment was not “public funds,” and that its use for private redevelopment was not subject to the prevailing wage act.

Nevertheless, the City may require private parties to pay prevailing wages as part of TIF development agreements with those private parties. To date, the Council has not done so. Mark Guethle, the Director of Governmental Affairs and Business Agent for Painters District Council #30 has asked if the Council would be willing to consider requiring prevailing wages on TIF-funded private projects notwithstanding the Illinois Department of Labor guidance.

City Council direction is requested.

2. Consideration of the Transfer of Road Jurisdiction to DeKalb Township in Several Locations.

City Manager’s Summary: Craig Smith, the DeKalb Township Highway Commissioner, has requested the Council’s consideration of the de-annexation of three short road sections presently within the City’s corporate limits, but connected to the Township’s road jurisdiction. The City Manager would not recommend de-annexing any buildable parcels within the city limits, especially in these times of fiscal constraint. However, the road areas in question are not “buildable,” their removal would not cause an irreversible loss in contiguity with currently developable parcels, and the proposed transfer in authority would be of mutual advantage. The Township would take on about 1.59 road miles (roughly 12.72 acres of right of way) that are in need of maintenance. For the Township, which builds EAV and its property tax by the addition of road mileage, this is advantageous, especially at a time when the City is expanding and will assume road jurisdiction in our industrial-zoned areas (e.g. portions of Gurler Road).

The three road sections are described in the attachments. Maps are provided to highlight the locations, along with the description of the adjacent parcels, whether the adjacent parcels are annexed or not, and their most recent City tax contribution. The only adjacent parcel with a significant tax contribution is the Market Square Cinema, which touches a small strip of County Farm Road. This parcel would not be de-annexed, as it would remain contiguous to the City’s larger jurisdiction over the Market Square shopping center.

County Engineer Nathan Schwartz has estimated that the asphalt re-surfacing of the three small road sections in the next five years would cost about \$590,000.

If the Council is supportive, the City Manager can bring back an ordinance which formally cedes jurisdiction to the DeKalb Township Road District, with

mutually agreeable language that provides for a reversal of this jurisdictional transfer to effectuate adjacent land development.

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

3. **Consideration of the Municipal Code Chapter 35 “Towing Policy”.**

City Manager’s Summary: At the regular City Council meeting of April 13, Council Member Mike Verbic recommended a Council review of the City’s towing policies, which are codified in the DeKalb Municipal Code, Chapter 35, “Towing Policy. There was particular Council support for a review of the standing policies for the consideration of grievances brought by competing towing companies as well as customers.

Background

The City of DeKalb has been regulating towing operations within the corporate limits since June 1984, and Chapter 35 has been amended 17 times since the first regulations were established.

Chapter 35 regulates two kinds of tows:

- a) **Police Tows.** There are a variety of circumstances in which the Police or a City department need to have a vehicle relocated including, but not limited to, the following:
- A vehicle is illegally parked on a posted road after two inches or more of snow have fallen, hampering snow removal efforts;
 - A vehicle is illegally parked on a parade route that is well-marked with cones or temporary signage;
 - A vehicle is lawfully parked on a public street but its location hinders effective firefighting operations;
 - A vehicle is inoperable after an accident and is blocking the road;
 - A vehicle needs to be impounded as part of a Police investigation;
 - A vehicle has ten or more unpaid parking violations;
 - A driver is arrested after operating a vehicle with a suspended or revoked license.

Police tows are frequent and routine and provide steady income for the licensed towing firms that are on the Police tow rotation. Under the present ordinance, the Police Chief has exclusive authority over the approval of the

tow rotation list used by the Police department and other City departments. With the help of other members of the Police department, the Chief reviews rotation list applications, checking for the appropriate insurance coverages; the location and adequacy of the secure lot required for the short-term storage of impounded vehicles; adequate communication equipment operated by the tow applicant to assure communication between drivers and other employees; and – most important – driver experience and any prior illegal acts or negative interaction with Police. The Chief also reviews and approves a standard fee list for the Police tow rotation.

b) **Private Property Relocations.** Chapter 35 also defines the approved practices for the relocation of vehicles from private property—most typically parking lots serving apartment complexes or commercial strip centers. Private property owners may employ commercial vehicle relocators to remove vehicles from off-street parking spaces or unapproved surfaces (e.g. private lawns) if the relocators provide the following:

- Appropriate, readable signage which warns the driver that unauthorized parking in certain locations may result in a private tow;
- A city-approved relocation compound that meets the City’s zoning requirements;
- Appropriate insurance for damage to property and persons;
- Appropriate dollies and other apparatus to assure that towed vehicles are not damaged;
- Information attesting to the safe and operable condition of the tow vehicle(s);
- Information affirming that the applicant is *“fit, willing and able to properly perform the service proposed and to conform to provisions”* of Chapter 35.

Upon the satisfaction of these and related provisions, the Chief issues or renews a relocators’ license.

It is important to note that a relocater can operate as a private property relocater – if lawfully licensed – without being on the Police tow rotation.

Areas of Dispute

The possible frictions that might arise from the consistent enforcement of the Towing Ordinance are many, but they essentially boil down to the following categories:

- a) Disputes Between Towing Personnel and Unhappy Customers. It should be no surprise that when a vehicle is hooked and removed, the vehicle's driver or owner will not be pleased--whether or not the tow was legal and authorized. This is particularly the case when the driver or owner does not have the money to get the vehicle released from its impoundment, or is without help to get to the impound location, or is under the influence of alcohol. A further aggravation is often connected with the fact that additional charges are authorized for the release of vehicles after regular business hours, on weekends, and on legal holidays.
- b) Disputes Between Towing Companies. The market for private property relocations is static because the number of private parking lots is not elastic. Police tows provide important revenue and are much coveted. Claims and counter-claims from competing firms are common because the fewer the number of authorized firms on the Police tow rotation, the greater the potential revenue shares.

Dispute Resolution

Over the 35-plus years since the towing ordinance was first established, the Chief of Police has by ordinance been in the middle of most towing disputes and resolutions. It is a thankless task.

- a. License Suspension/Private Relocator. In the event that the Chief of Police believes there is sufficient reason to temporarily suspend a license owing to substantial or repeated violations of Chapter 35, an appeal can be made by the relocator to the City Manager, in writing, within 10 business days of the Chief of Police's decision. The City Manager can then hold an administrative hearing to consider the suspension.
- b. Denial of License Renewal/Private Relocator. Likewise, if the Chief of Police believes there is sufficient reason to deny the renewal of a private relocation license, an appeal can be made in writing within ten days to the City Manager for review and, if requested, an administrative hearing will be held.
- c. Suspension or Denial of Tow Rotation Privileges. The Police Chief in his or her "sole and absolute discretion" may suspend or remove any company from the tow rotation based on the performance of the Company or its employees. Any such removal may be appealed to the City Council in writing within 30 days of the issuance of the Police Chief's notice of suspension or removal. Inclusion on the Police tow list is not a property right and there is no expectation of continuing service by virtue of inclusion on the list. The City Manager has no role, by ordinance, in this process.

Recommendation

To be consistent with our enforcement chapters in the Municipal Code, Chapter 35 should have an appeal process that has three levels: the Police Chief, the

City Manager, and ultimately the City Council. This ladder process obviously conforms to the provisions of Chapter 3 of the Municipal Code, which establish the City Manager's authority over City operations, but the City Council's final authority over public policy and over the performance of its chief operating officer. While it is not good public policy to have the City Manager or the City Council involved in remedying minor disputes that arise each week, when the life of a business is in question because of a pending license suspension or revocation there is arguably the need for an appeal process that can take the grievant to the level of the City Council if an appeal is not resolved to the mutual agreement of the parties at the department head's level, or by the City Manager.

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

J. RESOLUTIONS

1. **Resolution 2020-037 Approving an Auditorium Liquor License for Preservation of Egyptian Theatre (P.E.T.), Inc., d/b/a Egyptian Theatre, 135 N. 2nd Street.**

City Manager's Summary: On April 27, the City Council approved an amendment to the Dekalb Municipal Code, Chapter 38, "Intoxicating Liquors," to create an "Auditorium license classification. Among the key provisions of the new license category were the following:

- The entity must have fixed seating containing between 1,000 and 2,000 fixed seats;
- No package sales are allowed;
- The sales shall occur in the auditorium area and all lobby areas where the general public has access;
- The sale of liquor shall occur within a period of time that coincides with the admittance of the general public to an event and shall end thirty (30) minutes before the end of the event held within the premises;
- Containers used to serve alcoholic drinks must be clearly distinguishable from those used to serve non-alcoholic beverages;
- A patron may not be served more than two drinks at a time;
- All patrons shall be carded if they are suspected to be under the age of twenty-one years; and
- No alcoholic beverages may be taken beyond the exits of the premises.

Assistive services available upon request.

Hearing assistance devices are available in the Information & Technology Office, which is located to the right, just before entering Council Chambers.

The Egyptian Theater has applied for a liquor license under the new classification. The license has been vetted by the City staff and is recommended for the Council's consideration and approval.

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

2. Resolution 2020-038 Authorizing an Agreement for Construction Phase Engineering Services with Crawford, Murphy & Tilly for the Relocation and Replacement of the Existing NAVAID Units on Runway Ends 2, 20, and 27 (IL Project DKB-4556).

City Manager's Summary: Crawford, Murphy & Tilly has been performing engineering services in behalf of the DeKalb Taylor Municipal Airport since the 1990s and is working with federal aeronautics officials and our lobbyist, the Daley Group, to secure funding for a number of Airport projects listed on the Airport's FY2020-2024 Transportation Improvement Plan. One of those projects is the third and last phase of a long-held plan to replace the existing Visual Approach Slope Indicators (VASI units) of Runway ends 2, 20, and 27 with Precision Approach Path Indicators (PAPI units).

The contract with Crawford, Murphy & Tilly in the amount of \$79,000 includes the federally-required project supervision for this scheduled upgrade. The local cost will be \$3,950; the state cost will be \$3,950; and the federal cost will be \$71,100. The City's local share is budgeted in Fund 260 (TIF #1 260-00-00-83900).

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

K. ORDINANCES – SECOND READING

None.

L. ORDINANCES – FIRST READING

1. Ordinance 2020-031 Authorizing an Effective Electrical Utility Tax Rate for Electricity Used or Consumed by Ventus Tech Services, LLC (Project Ventus).

City Manager's Summary: The City Council's approval of the Ventus Annexation and Development Ordinance on April 27 requires approval of a fee threshold and rate appropriate to the Company's extraordinary, consistent and controlled electrical usage.

In the spring of 2019, the state legislature enacted data center legislation that exempted data centers from utility taxes on electrical and natural gas usage. Local municipal utility taxes were not exempted. The DeKalb Municipal Code

establishes a structured fee schedule for all users. The schedule's 10 tiers charge 0.61 cents (0.0061) per kilowatt hour for the first 2,000 kilowatt hours used in a month and 0.32 cents (0.0032) per kilowatt hour for usage in excess of 20,000,000 kilowatt hours per month. Across all current residential, commercial, and industrial users, the FY2020 City Budget estimates a total of \$1,718,326 in municipal utility taxes for electrical usage.

When fully energized, the company's monthly kilowatt usage will exceed the top tier of the City's utility tax schedule. During the construction phases, the company will pay the electrical utility taxes required by the current fee schedule. Two years after the date that the company's facilities are fully energized, the company is committed to an annual payment of \$125,000 for its electrical energy usage, or a rate of 0.00045 per kilowatt hour, whichever is greater.

It should be noted that the company is committed to investing in alternative energy sources including solar panels, wind energy, and geothermal cooling within the power "grid" serving the City of DeKalb and the larger surrounding region.

City Council approval is recommended. Ventus Tech Services has requested approval on both readings. [\(Click here for additional information\)](#)

M. REPORTS AND COMMUNICATIONS

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

N. EXECUTIVE SESSION

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

O. ADJOURNMENT

[FULL AGENDA PACKET](#)