



## DEKALB CITY COUNCIL AGENDA SEPTEMBER 23, 2019

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

### REGULAR CITY COUNCIL MEETING 6:00 P.M.

#### A. CALL TO ORDER AND ROLL CALL

#### B. PLEDGE OF ALLEGIANCE

1. **#Proudly DeKalb – Northern Illinois University Marching Band.** The Council and audience will have an opportunity to enjoy the inspiring participation of a 22-member contingent of the Huskie Marching Band in conjunction with the Pledge of Allegiance.

#### C. APPROVAL OF THE AGENDA

#### D. PUBLIC PARTICIPATION

#### E. PRESENTATIONS

1. [Proclamation: Fire Prevention Week, October 6 – 12, 2019.](#)
2. [Proclamation: Celebrating the 20<sup>th</sup> Anniversary of the DeKalb/Sycamore Altrusa Community Spelling Bee.](#)

#### F. APPOINTMENTS

None.

#### G. CONSENT AGENDA

1. [Approval and Partial Release of the Executive Session Minutes of the Regular City Council Meeting of July 22, 2019.](#)
2. [Minutes of the Committee of the Whole Meeting of September 9, 2019.](#)

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3. [Minutes of the Regular City Council Meeting of September 9, 2019.](#)
4. [Accounts Payable and Payroll through September 23, 2019, in the Amount of \\$ 1,620,851.68.](#)
5. [Investment and Bank Balance Summary through July 2019.](#)
6. [Year-to-Date Revenues and Expenditures through July 2019.](#)
7. [Freedom of Information Act \(FOIA\) Report – August 2019.](#)
8. **Resolution 2019-132 Authorizing the Execution of a Workers' Compensation Lump Sum Petition and Order in the Amount of \$31,530.44 (Jordan Poulos).**

City Manager Summary: On April 22, 2016, Jordan Poulos was injured while working as a Police Officer with the City's Police Department. Mr. Poulos underwent medical treatment for his injuries.

The City has reached a tentative agreement on a proposed settlement of this claim, which is subject to approval by the City Council, and also subject to approval by the Illinois Workers' Compensation Commission Arbitrator.

The proposed settlement contemplates payment of currently outstanding medical bills and a permanent partial disability payment totaling \$31,530.44. The settlement also contemplates that future medical treatment would be closed. In the absence of settling this claim, it is likely to proceed to a contested hearing with an uncertain outcome and further City defense costs.

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

9. **Resolution 2019-136 Authorizing the Execution of a Workers' Compensation Lump Sum Petition and Order in the Amount of \$64,000.00 (Dale Diedrich).**

City Manager Summary: The City has reached a tentative agreement to close its obligation for continuing medication expenses relating to a comp case settled in November 2010. Based on the life expectancy of the petitioner who is presently 48 years old, and current monthly drug prescription claims of about \$1,100.00, the settlement caps the disbursement for medical claims at \$64,000.

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

## H. PUBLIC HEARINGS

### 1. Public Hearing Regarding a Second Amendment to an Annexation Agreement for Property Located at 2061, 2112, 2115 and 2121 Sycamore Road.

City Manager Summary: The applicant, Corral Dyn, LLC, represented by Marvin Keys, is requesting approval of an amendment to the annexation agreement for the commercial subdivision where Aspen Dental and ATI Physical Therapy are located along Sycamore Road to remove the limit on the non-retail square footage allowed. The applicant is also requesting to add “armed services recruiting station” to the list of permitted service uses for the development.

On March 14, 2016, the City Council approved Ordinance 2016-007, which annexed and rezoned 1.37 acres of property along Sycamore Road to the PD-C “Planned Development Commercial District”. The property contains two buildings and is located at 2061, 2112, 2115 and 2121 Sycamore Road. The 2016 Ordinance provided that retail uses, restaurants and professional service offices (e.g. medical, legal, financial) would be allowed. The Ordinance also had a provision that limited the square footage of professional service office uses to no more than 33% of the total square footage of both buildings. The 33% restriction was negotiated by the City to ensure the development on the property would generate sales tax income for the City in exchange for approval of some exceptions to the UDO. The two commercial buildings indicated on the plans were constructed following the approval in 2016. The northerly building is 8,015 square feet and the southerly building is 3,520 square feet. The southerly building (2061 Sycamore Road) was fully occupied by Aspen Dental (formerly Delta Dental) upon completion. The 33% maximum square footage for professional service office uses was occupied by the Aspen Dental occupancy.

On November 28, 2016 the City Council approved an amendment to Ordinance 2016-007 by adopting Ordinance 2016-039, which increased the amount of square footage that could be occupied by professional service office uses from 33% to 53%. The amendment was requested in order to accommodate ATI Physical Therapy (2121 Sycamore Road), which wanted to move in to an approximate 2,600 square foot space in the northerly building. In exchange for the City’s approval, the petitioner agreed to perform site improvements to another property they owned at 1700 Sycamore Road (northeast corner of Sycamore Road and E. Dresser) including installing new LED lighting, resurfacing and restriping of the parking lot and additional landscaping.

There is 5,415 square feet remaining in the northerly building and the petitioner would like to have an armed services recruiting office locate in a 2,933 square foot tenant space in the building (2115 Sycamore Road). The basis for the

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petitioner's request is that despite owning and marketing the property for retail uses since the construction of the buildings on the site three years ago, they have been unable to secure retail users. The petitioner is requesting the amendments in order to preserve the economic viability of the center and be allowed to remove the square footage restriction on professional service office uses so they can bring in tenants that desire the location. ([Click here for further information](#))

## I. CONSIDERATIONS

### 1. Consideration of Additional Transit Service to the Elburn Train Station (New Route 12).

City Manager Summary: Increased shuttle service to the Elburn train station was identified as an important component of public transportation in the Transit Development Plan completed by DSATS in 2017. Current service is provided by Transdev Services Inc. (Transdev) on a limited basis, occurring only on Friday and Sunday afternoons when Northern Illinois University (NIU) is in full session.

The City of DeKalb contracts with two separate transit providers: Transdev and the Voluntary Action Center of DeKalb County (VAC). The contract with Transdev was executed on November 15, 2018 and is for a five-year period from January 1, 2019 to December 31, 2023, with the possibility of two one-year extensions. The contract with VAC was executed on September 26, 2016 and was for a one-year period from October 1, 2016 to September 30, 2017 with the possibility of four one-year extensions.

The form of contract and reimbursement process from the FTA and IDOT are different for each contract. The Transdev contract has a marginal rate of \$43.90 per hour and a yearly fixed charge of \$1,530,636. The VAC contract is for \$75.00 per hour and increases each year to a maximum of \$77.75 per hour.

Proposed Service Description. The Elburn route will remain a fixed route service and will continue to be operated by Transdev. This proposed additional service will operate seven days a week. Additional driver labor will be required. The anticipated start date of this service is October 7, 2019. Fixed costs will include one additional Super Medium Duty bus, which will be painted in Huskie Line colors and provided by Transdev.

Service will operate one trip per day each morning, Monday to Sunday, and one trip per day each afternoon, Monday to Thursday, and Saturday. Friday and Sunday afternoon service will continue as scheduled in the original contract with Transdev.

The current and proposed fare structure for the Elburn Shuttle is as follows:

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Current		Proposed	
Children 5 and Under	Free	Children 5 and Under	Free
NIU Students	\$ 6.25	Seniors/Disabled/Students*	\$4.00
NIU Faculty/Staff	\$ 8.50	General Public	\$8.00
General Public	\$10.50		

\*Valid identification required for discounted fare rates.

It is recommended that the current contract with Transdev be modified to provide additional bus service to the Elburn train station beginning on Monday, October 7, 2019. The Transdev contract would increase from \$3,970,557 to \$3,999,667 in the current year and from \$4,013,502 to approximately \$4,129,502 in FY2020.

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

**2. Consideration of Additional Transit Service (New Route 19) to the Major Employers in the South Industrial Parks.**

City Manager Summary: Public transit service to Park 88 and the Fairview Road corridor is currently only available via the on demand, door-to-door service provided by the Voluntary Action Center (VAC). Passengers that use this service must have an updated application on file with VAC and are required to schedule their rides one to six days in advance.

Increased shuttle service to the southern portion of DeKalb was identified as an important component of public transportation in the Transit Development Plan completed by DSATS in 2017. Public transit to this area will provide residents of DeKalb with consistent access to and from areas of employment, childcare, and schooling.

The proposed service will provide access to employers along South Seventh Street, Fairview Drive, Macom Drive, Harvestore Drive, and South Tenth Street. Additionally, the route will pass by elementary and middle schools that will provide reliable access for parents and children who may need alternative methods of transportation to and from school. This route will be considered a fixed route service and will be operated by Transdev. The proposed additional service will operate five days a week and the anticipated start date is Monday, October 28, 2019.

Transdev estimates a cost per revenue hour of \$80.00. The total cost for the remainder of the City's fiscal year is estimated at \$59,976, and the total anticipated annual cost in subsequent years is \$350,000.

The proposed fare structure for the new Route 19 would be heavily subsidized, given the high operating costs and small anticipated revenue from riders. IDOT DOAP funding will provide 65% of the cost; the 35% local share will be split per

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the City and NIU intergovernmental agreement along with Federal Transit Administration 5307 grant funds.

**Recommendation: It is recommended that the current contract with Transdev be modified to provide additional bus service to south DeKalb and Park 88 beginning on Monday, October 28, 2019.** This should be considered a one-year pilot program. During the next fiscal year, efforts should be made to gain employer support along the route. The Transdev contract would increase from \$3,970,557 to \$4,030,533 in the current year and from \$4,013,502 to approximately \$4,363,502 in FY2020. ([Click here for further information](#))

## J. RESOLUTIONS

- 1. Resolution 2019-137 Authorizing the City Manager to Enter into a Professional Service Agreement with Wills Burke Kelsey Associates, Ltd. for the Completion of a Corridor Study for Peace Road Between Illinois Route 38 and Gurler Road in an Amount Not to Exceed \$330,000.**

City Manager Summary: The City has received notice that state and federal funding is available to improve portions of the Peace Road corridor south of Illinois Route 38 (IL-38). In order to qualify for the allocation of those funds, and to help advance coordination with other agencies and developers, it is necessary for the City to complete a feasibility study for the corridor along Peace Road from the intersection of IL-38 to the intersection of Gurler Road. DSATS has helped secure a commitment for funding in 2021 to begin widening and upgrading this road section. The City's local share involves engineering studies that include, among other things, evaluating the physical improvements that would be most appropriate and functional, the traffic levels, any necessary land acquisition, and environmental impacts.

The deliverables will include a corridor map showing an overlay of the proposed facility when fully complete, typical sections for understanding the cross-section of the roadway, designs for all current and anticipated intersections, development and traffic projections for a 20-year period, and a project memorandum relating to project issues such as environmental impacts, utility coordination, and right-of-way implications. The project engineer will also cooperate with Township and County authorities and invite public comment at appropriate points in the process.

Wills Burke Kelsey (WBK) is pre-qualified on the City's QBS list of engineering design consultants. The attached resolution authorizes the City Manager to enter into an agreement with WBK to complete the aforementioned design responsibilities with the cooperation of the city engineer and other City staff. The portion of the study to be completed in FY2019 would cost around \$110,000, with the remaining \$220,000 to be budgeted in 2020. A current fund balance within the Motor Fuel Tax (MFT) Fund is available to pay these costs.

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

**2. Resolution 2019-138 Authorizing the Expenditure of FY2019 Motor Fuel Tax Funds to Initiate Engineering Services for the Completion of a Corridor Study for Peace Road Between Illinois Route 38 and Gurler Road in an Amount Not to Exceed \$110,000.**

City Manager Summary: IDOT requires a resolution for the expenditure of any State Motor Fuel Tax (MFT) funds. Resolution 2019-137, above, contemplates an agreement for services with Wills Burke Kelsey Associates, Ltd. (WBK) to complete a Corridor Study of Peace Road. This resolution advances the engineering services in the fall of 2019 in order to meet deadlines for access to State matching construction funds.

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

**3. Resolution 2019-139 Authorizing the Sale of Real Property Located at 1101 N. First Street (PIN 08-14-305-018) in the Amount of \$80,000.00.**

City Manager Summary: On August 12, the Council authorized the City Manager to list a number of City-owned parcels for sale ([Resolution 2019-122](#)). The Manager was authorized to enter into an agreement with a properly licensed real estate broker based on a contingency fee agreement for the marketing and listing of these city-owned properties. All listings were to be advertised through the MLS system to afford access to any interested broker. The Council further restricted any contingency fee agreement to a fee not exceeding five percent (5%) if any city property is sold through the broker without another real estate broker involved, or not exceeding six percent (6%) if sold with the involvement of a second brokerage firm.

The listing agreements were signed with Miller Real Estate on August 15. Since that time, the City Council has authorized the sale of a fragment of land along the Kishwaukee River near N. First Street to Robert Carlson in the amount of \$800.00 (August 16) and authorized the sale of a commercially zoned City property at the southeast corner of N. First Street and Locust Street to Plaza DeKalb, LLC for the list price of \$119,500 (September 9).

One other City parcel authorized for sale on August 12 has recently received interest – the vacant food and fuel service station at the northwest corner of N. First Street and Hillcrest Drive. On September 5, the City received an offer from Kumar Chaudhary in the amount of \$80,000. Mr. Chaudhary and his family have redeveloped other service station parcels with similar remediation requirements at well-travelled intersections.

The interested purchaser is aware of the involvement of the IEPA and State Fire Marshall in this parcel, and remaining mitigation responsibilities. The City

Attorney advises that the real estate purchase contract with the buyer will address the environmental issues between the City and the buyer, but it does not foreclose the possibility of potential future enforcement action by State and Federal authorities should the buyer not sufficiently remediate the environmental issues.

**City Council approval of the Chaudhary offer is recommended.** [\(Click here for further information\)](#)

**4. Resolution 2019-140 Supporting the Issuance of a Permit from the Illinois Department of Transportation Authorizing Lovell's Discount Tire to Proceed with Work to Reconstruct the Commercial Entrance at 424 E. Lincoln Highway.**

City Manager Summary: The commercial entrance for Lovell's Discount Tire at 424 E. Lincoln Highway will be redeveloped before year's end. The commercial entrance is located within the State Highway Route 38 right-of-way and, by law, is under the jurisdiction and control of IDOT, requiring a permit before work may proceed.

As part of the permit application process, IDOT requires a signed resolution by Council as the guarantor that work will be performed in accordance with the conditions of the permit as granted by IDOT. Our staff requests approval of this resolution to allow the redevelopment of Lovell's Discount Tire to finally proceed.

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

**K. ORDINANCES – SECOND READING**

None.

**L. ORDINANCES – FIRST READING**

**1. Ordinance 2019-059 Amending Chapter 3 “City Administration”, Section 3.14, “City Clerk”.**

City Manager Summary: The Council has publicly debated the role and duties of the City Clerk's office since August 12. In the Committee of the Whole meeting on September 9, some common ground was identified. For instance:

- There was a strong consensus that the constitutional office of City Clerk should remain an elected one in DeKalb;
- The Clerk's office should be responsive to the general public and businesses who might need sealed copies of licenses, contracts, etc. on any given day of the week, and at all hours of the regular business day.

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- The official documents, proceedings, and deliberations of the City Council and City government should be regularly and carefully recorded for posterity.
- The corporate seals should be available so that attested, executed documents can be available as the public needs them.

There remain differences, however, over the following points:

- How the routine duties of the part-time Clerk and any deputy might be settled, and how any deputy might be selected;
- What level of staffing was needed for the Clerk's office;
- What level of budget was needed for an efficient Clerk function;
- Whether the Clerk should be a part-time or full-time position.

For over six weeks, the Council has not ceased from its exploration. Now, to borrow the poet's words, *we are near the end of our exploring and we may "arrive where we started and know the place for the first time."*

**The key fact that is not in dispute is that the Executive Assistant has performed the essential Clerk duties for over five years faithfully and well, and has cordially worked with, and trained, every one of the seven clerks she has served, including Ms. Fazekas. The public has been efficiently and promptly served by Ms. Scott, and at no extra cost. The debate over whether there should be a deputy clerk is beside the point. With the well-trained and highly effective Executive Assistant, there is no need for a deputy or anything more than a part-time Clerk. The "status quo" had been working except the corporate seal was not available to Ms. Scott, although state statute and city ordinance provide for this convenience. Under this circumstance, documents that the public needed could not be attested in the absence of the Clerk.**

The attached ordinance centers the debate in the practical realm of everyday, successful government service. The principal features are as follows:

- The City Clerk remains a part-time position of about .25 FTE. The duties of the part-time City Clerk are enumerated, and conform to those identified in recent discussions involving Clerk Fazekas, Executive Assistant Ruth Scott, and Council member Carolyn Morris;
- The full-time duties of the Executive Assistant are enumerated, and conform generally to those recently discussed by Clerk Fazekas, Executive Assistant Ruth Scott, and Council member Carolyn Morris;

- The corporate seals will be shared by the Clerk and Executive Assistant, and the Executive Assistant will be able to use a seal during regular business hours to execute key documents in the absence of the Clerk.
- No new or additional expense needs to be incurred by the City to staff the various Clerk functions.
- There is no Deputy Clerk position. State statute gives the Council the right to decide whether a Deputy Clerk is needed, or some other officer is suitable to assist the Clerk in the discharge of her duties [65 ILCS 5/3.1-30-10(b)]. **As we have seen for years, the Executive Assistant can provide all the assistance that is required by the public in the absence of the Clerk.**

The Mayor and Council--the corporate authorities--have the statutory authority and duty to resolve the outstanding issues.

**City Council approval of the attached ordinance is recommended.** [\(Click here for further information\)](#)

2. **Ordinance 2019-060 Authorizing a Second Amendment to the Annexation Agreement and Amendment Represented by Ordinance 2016-007 and Ordinance 2016-039 to Remove the Maximum Square Footage Allowed for “Professional Service Offices” and to Add “Armed Services Recruiting Stations” and Other Service-Related Uses to the List of Uses Allowed Under Professional Service Offices for the Property Located at 2061, 2112, 2115 and 2121 Sycamore Road (Corral Dyn, LLC).**

City Manager Summary: Some extensive background is provided under “Public Hearings,” above. The applicant, Corral Dyn, LLC, represented by Marvin Keys, is requesting approval of an amendment to the annexation agreement for the commercial subdivision where Aspen Dental and ATI Physical Therapy is located along Sycamore Road to remove the limit on the non-retail square footage allowed. The applicant is also requesting to add “armed services recruiting station” to the list of permitted service uses for the development.

The Planning and Zoning Commission held a public hearing regarding the petition at their meeting on September 4, 2019. By a vote of 5 to 0 (Commissioners Wright and Buckley were absent), the Commission recommended City Council approval of the amendments to the annexation agreement to remove the maximum square footage allowed for “Professional Service Offices” in the agreement and to add “armed services recruiting stations” to the list of uses allowed under Professional Service Offices for the subject property. The Commission motion also included an allowance to permit other service-related uses as defined in the UDO and as permitted in the “GC” General Commercial zoning district.

**City Council approval of the Planning and Zoning Commission recommendation is requested. ([Click here for further information](#))**

- 3. Ordinance 2019-061 Amending Chapter 33 “Peddlers, Solicitors and Itinerant Merchants”, Section 33.13 “Food or Beverage Vending Vehicle” as it Pertains to the Licensing of Food and Beverage Vending Vehicles, and Minor Text Amendments throughout the Chapter.**

City Manager Summary: On June 24, 2019, the City Council extended the expiration of minor text amendments to Chapter 33 of the Municipal Code, relating to food truck vending in the City of DeKalb. That extension expires on September 30. The amendments were designed to encourage food trucks with more business-friendly requirements for starting or continuing such businesses in DeKalb.

The amended textual passages have cured many of the deficiencies in Chapter 33, from a business perspective. Currently, new applicants are required to pay \$25.00 for each person listed on the application, a \$50.00 background check fee for each person listed on the application, a \$50.00 vehicle inspection fee, and a monthly \$50.00 renewal fee. After further review, it is recommended that Section 33.13 be amended in order to allow annual licensing of Food and Beverage Vending Vehicles from April 1 through March 31. The application fee will remain the same, as will the background check and inspection fees. However, instead of requiring a \$50.00 per month renewal fee, vendors will only be required to pay \$50.00 annually.

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

- 4. Ordinance 2019-062 Amending Ordinance 2019-001 “Prohibiting the Use of Groundwater as a Potable Water Supply by the Installation or Use of Potable Water Supply Wells or by any Other Method (421 Grove Street)” as it Pertains to Minor Changes Requested by the Illinois Environmental Protection Agency.**

City Manager Summary: Ordinance 2019-001, passed by Council on January 14, 2019, allowed Timber Creek Properties, LLC to achieve compliance with an Illinois Environmental Protection Agency (IEPA) prohibition of any future groundwater wells for irrigation or other purposes on their property at 421 Grove Street, the former site of Sawyer Motors. This ordinance was the last step in an orderly soil remediation process. In order to obtain an IEPA letter requiring no further remediation, the City needed to ban the use of any groundwater wells on the property.

On September 10, 2019, the City was contacted by the Timber Creek Properties consultant, A3 Environmental, LLC (A3E), stating that the IEPA has requested minor changes to Ordinance 2019-001, which are as follows:

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- In Section 2 of the ordinance, the words “500-foot radius” would be removed because the area shown on Exhibit A is more of a “square” than a radius.
- Exhibit B of the ordinance, under Block 302, line 4, “0823302024 – 401 Grove Street” would be changed to 0823302204 – 401/421 Grove Street.

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

**5. Ordinance 2019-063 Authorizing an FY2019 Budget Amendment to Provide for Capital Expenditures at Barb City Manor.**

City Manager Summary: The City has assisted Barb City Manor, Inc. (BCM) with building improvements for more than 20 years, recognizing the value of providing housing for low-to-moderate-income senior citizens in a building complex owned by the City. Historically, the City has budgeted \$100,000 annually in TIF #2 for various remodeling and renovations at BCM with the understanding that FY2018 would be the final year of that appropriation. In FY2019, TIF #2 funds that were accrued and unspent in 2018 can be allocated in 2019.

The 10-year lease extension approved by the Council on June 24 also included the understanding that the “carryover” of \$249,039 from unspent allocations in previous years would also be paid out. This resolution revises the FY2019 TIF #2 Budget (Fund 261) to facilitate such payouts. Barb City Manor has a number of deferred capital projects in process including electrical repairs, fire escape repairs, and roofing repairs that will hopefully be completed before the end of the fiscal year. A supermajority of six (6) votes is required to approve this budget amendment.

**City Council approval is recommended.** ([Click here for further 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](#)

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