

Galesburg City Council
Special Council Meeting
February 14, 2023
4 pm

Watch Live at: <https://www.publicmedianet.org/pmn-community-live>

1. Call to order
2. Pledge of allegiance
3. Attendance roll call, consideration of excused absences
4. Citizen comment
5. Police department presentation: Councilman Roger Frazee
6. Public safety special assessment presentation: Attorneys Rob Thall and Seth Koches
7. Discussion and consideration: Resolution tentatively designating police services special assessment district and for notice of public hearing
8. Discussion and consideration: Resolution tentatively designating fire protection special assessment district and for notice of public hearing
9. Council comments
10. Adjournment

Public Comment Procedures

Public Comment is a time for citizens to offer comments on agenda and non-agenda items. We welcome your comments which are very important to us. Please note that all comments are limited to three minutes. Those in attendance cannot "give" their three minutes to another person, thus allowing someone to speak longer than three minutes.

Please go to the podium to comment. Please state your name and whether you live inside the City limits. Please address your comments to the City Council.

Note that we will not be entering into dialogue at this time. The purpose of this agenda item is for **YOU**, the public, to inform **US**, the Council, about your views. Please leave your contact information with the Clerk for any follow-up responses. Please address the Council in a respectful and courteous manner. If members of the public have factual questions, staff may be able to address them.

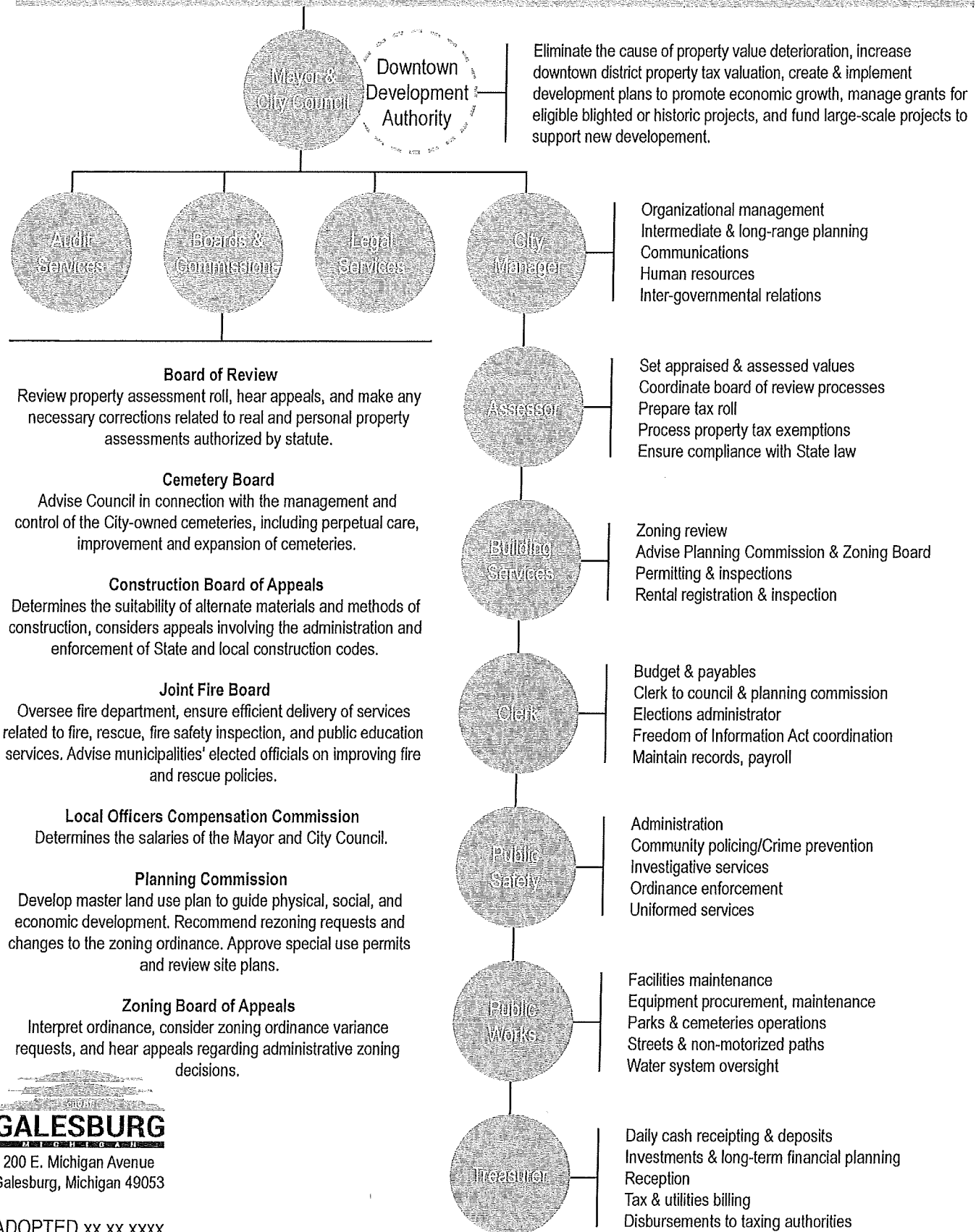
	Startup: Chief + 1 PT
FT police chief's salary Hourly \$36.00	75,000
FT police chief retirement (Count into wages)	0
FT police chief health/life/disability	
PT police officer	22,500
FT admin assistant / split with City	50,000
FT admin assistant retirement	2,000
FT admin assistant health/life/disability	
Insurance - Workers comp @ \$2.53/\$100 payroll	3,720
Insurance - Liability & property @1300/officer	2,600
Insurance - Vehicle (2@ \$700)	1,400
Office modifications	2,000
Computers & setup, 2 @1000	2,000
Uniforms	3,000
Dry cleaning	
Badges (shirt, coat, hat, wallet)	1,000
Ballistic vest, with carrier	1,800
Reflective traffic vest (2) each car	50
Sig 9mm w/3 magazines/with light	1,600
Holster, level 3	600
Duty belt	600
Axon taser CQ w/holster	3,000
Pepper spray	60
Rifle: M-4 Colt, accessories* (1)	
Rifle ammunition (for 1)	
Shotgun: Remington 870 (1)	400
Shotgun ammunition (for 1)	50
Radio (portable): Motorola APX6000 @ \$5000	10,000
Radio (car): Motorola	10,000
Axon body camera w/evidence system	
RMS system (Talon)(TIMS)	6,500
Stinger stream light	150
Vehicles (2 @ \$45,000)	90,000
Vehicle outfit (2 @ \$12,000)	24,000
Laser handheld speed measurement	
Mobile laptop (2) G-Tech or Dell	3,000
In-car printer (s)	1,000
Custom radar unit (Raptor) (2)	34,000
Speed trailer	
Breathalyzer, portable	
Total	352,030

ARPA		218,000
Hazard pay	36,000	
Security system	8,775	
Demolition	60,000	
Remaining ARPA funds available for startup		113,225

Current law enforcement budget		187,500
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Budget + available ARPA funds		300,725
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Galesburg Residents & Taxpayers



200 E. Michigan Avenue
Galesburg, Michigan 49053

ADOPTED xx.xx.xxxx

BAUCKHAM, THALL, SEEGER, KAUFMAN & KOCHES P.C.

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JOSHUA E. THALL

JOHN H. BAUCKHAM
1923 – 2015

HARRY F. SMITH
1906 – 1972

February 10, 2023

To: Sarah Joshi
City Manager
City of Galesburg

From: Seth Koches, City Attorney

Re: City Wide Police and Fire Special Assessment District

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Background: Our office was asked to research the process and procedure for initiating a City-wide special assessment to pay for and/or defray the City's costs of providing and maintaining police and fire protection services to City residents.

The City currently receives police protection services contracted through the Kalamazoo County Sheriff's Department at a cost of approximately \$187,500 per year; and, fire protection services through the Galesburg-Charleston Fire Department. The City uses funds from its general fund to pay for police protection services. The City contributes approximately \$125,000 per year for police and fire protection services out of its general fund in addition to having fire millage to help defray fire protection services costs.

Act 33 of 1951: The Police and Fire Protection Act, being Public Act 33 of 1951 (hereinafter, the "Act") authorizes townships and "qualified cities" to provide police and fire protection services by creating a city-wide special assessment district. Act 33 defines a "qualified city" to mean a city that with a population of less than 15,500. MCL 41.810(2)(a).

The Act authorizes the City Council to purchase police and fire motor vehicles, apparatus, equipment, and housing. MCL 41.801(1). The City Council may provide annually by resolution for the appropriation of general or contingent funds for maintenance and operation of police and fire departments. MCL 41.801(2). In other words, each year the City Council determines what the annual levy of the SAD will be; this is usually done when the budget is approved. The City Council may provide that the sums for purchasing and housing equipment for the operation of the equipment (or

both) special assessment on property within the City to be benefited (i.e. City wide; except on properties exempt from the collection of taxes under the general property tax act).

I. Creating the Special Assessment District.

The special assessment may be initiated in one of three ways:

1. By resolution of the City Council (notice of intent);
2. By a vote (ballot question); or,
3. By petition (10% of qualified electors within the SAD)

Procedure to initiating a City-wide special assessment district BY RESOLUTION:

1. City passes a resolution of notice of intent to create a special assessment district.
2. The City estimates the cost and expenses of the police and fire vehicles, apparatus, equipment and housing and sets a day for a hearing on the estimate, on the question on creating the SAD, and on the boundaries of the district.

II. Public Hearings.

A. First Public Hearing.

- Purpose - The first hearing is to establish the district and approve the cost estimate, and hear objections.
 - The City must publish a notice [must comply with the OMA] in the newspaper a notice stating the date, time, place and purpose of the meeting.
 - The notice must be published not less than 5 days before the hearing.
 - Mailed notice must be provided to every property owner within the District not less than 10 days before the hearing.
 - The City Council hearings objections against the estimate and creation of the SAD.

After the first public hearing: The City Council adopts a resolution confirming the special assessment district, confirming the costs and expenses and directing the mayor to spread the levy on the roll.

Notes: Act 33 requires the special assessment to be spread on the taxable value, so it must be expressed as a millage rate on the roll. 10% of property

owners within the special assessment district may submit petitions BEFORE the District is established demanding a right of referendum (ballot). If a petition with the requisite number of signatures is submitted, then the question of whether a special assessment district for police/fire protection services is submitted to the electors.

Sample ballot language:

Shall the City of Galesburg, Kalamazoo County, Michigan, create a City-wide police and fire protection special assessment district under Michigan Public Act 33 of 1951, as amended, for the purpose of raising money by special assessment therein for furnishing fire and police protection, and purchasing and housing equipment, and for the operation of the same?

Yes_____ No_____

Notes: if the question is approved by the electors, the boundaries of the City-wide special assessment district are established. Thereafter, the City moves forward with the first public hearing to confirm the district that was created by the electors, estimate the costs, and hear any objections. We don't believe there is another right of referendum to send the question of whether to create a special assessment district if the electors voted to approve it.

B. Second Public Hearing

- **Purpose:** To hear objections to the distribution of the special assessment levy on the taxable properties in the City (objections to the roll).
 - This hearing must be held and noticed in the same manner as the first public hearing.
 - The Mayor and Assessor generally work together to compile the roll, which indicates how much each parcel within the district will be assessed.
- **After the second public hearing:** Adopt a resolution approving the assessments on the roll, which are then levied on the December (Winter) tax bill. Following the public hearing the board can confirm the roll, or amend or correct it *to be billed on the winter tax bill.*

Notes: The Michigan Tax Tribunal has exclusive jurisdiction to hear appeals/protests of special assessments. A property owner from within the special assessment district has 35 days to appeal their assessment to the tribunal. Michigan case law: *special assessments are presumed to be valid.* A

property owner must appear and object at the second public hearing on the roll in order to preserve their appeal right.

C. Annual Hearing

- The City Council shall annually determine the amount to be assessed in the district for police and/or fire protection services, shall direct the Mayor to distribute the special assessment levy, and shall hold a hearing on the estimated costs and expenses of police and fire protection and on the distribution of the levy on the roll.
 - Each year the City estimates its next year costs and expenses and holds a public hearing to set the SAD levy for the following year.
 - Same noticing requirements apply: mailed notice in compliance with OMA to every property owner not less than 10 days before the hearing; and, published notice in the newspaper not less than 5 days before the hearing.
 - We normally suggest that the annual hearing be conducted in conjunction with the city budget hearing.
 - There is an annual cap of 10 mills on the taxable value of the area in the district on capital expenditures for vehicles, apparatus, equipment, and housing in a one year period.

Sincerely,

BAUCKHAM, THALL, SEEBER
KAUFMAN & KOCHES, P.C.

/s Seth Koches
Seth Koches (P71761), City Attorney

SPECIAL ASSESSMENT DISTRICTS:

POLICE & FIRE PROTECTION SERVICES

1

PUBLIC SAFETY FUNDING GENERALLY

- City General Fund.
- Extra Voted Millage.
- Special Assessment –Public Act 33 of 1951; MCL 41.801 et seq.
- Bond supported by S.A. or Millage for buildings or vehicles.
- Installment Purchase for buildings or vehicles.
- Municipalities are finding it difficult to support public safety from the General Fund and are exploring other funding. Most are turning to using special assessments.

4

Discussion points:

1. Public Act 33 of 1951.
1. City-Wide Special Assessment District.
 - i. What is a SAD
 - ii. Fire Protection Services
 - iii. Police Protection Services
 - iv. Required SAD Public Hearings / Noticing Requirements
 - v. Purposes of Public Hearings

2

PA 33 Special Assessments vs Millage

- Extra Voted Millage for public safety.
- Must be voted on by the electorate.
- 20-year limitation.
- Subject to annual Headlee rollbacks.
- General Property Tax Act exemptions apply.

5

Public Safety Generally

- Public safety refers to police protection, fire protection, and ambulance services. It includes vehicles, equipment, facilities, and operations. Any or all of such services or items.
- Most municipalities provide some level of police/fire protection.

3

PA 33 Special Assessments vs Millage

- PA 33 Special Assessments:
 - ❖ Not subject to tax limitations (SAD is a levy, not a tax).
 - ❖ No vote required unless right of referendum initiated.
 - ❖ Special Assessment District can be perpetual.
 - ❖ Special Assessment not subject to annual Headlee rollback.
 - ❖ Costs for public safety services (police/fire) determined annually and spread within the district (city-wide).
 - ❖ Assessment placed on the winter tax bill.
 - ❖ SADs are presumed to be valid.

6

City of Galesburg

- PA 33: an act to provide police and fire protection for townships and qualified cities; to authorize contracting for fire and police protection; to authorize the purchase of fire and police equipment, and the maintenance and operation of the equipment; to provide for defraying the cost of the equipment; to authorize the creation of special assessment districts and the levying and collecting of special assessments...

7

Creating the Special Assessment District

- There are two required public hearings:
 - **First public hearing** is to determine the district boundaries (City-side) the cost estimate for fire/police protection services [i.e. for the next year -- 2024] and to hear objections on the same.
 - **Second public hearing** is to hear objections to the roll and spread the assessments on the roll.
 - Generally the supervisor, assessor and treasurer work together to create the

10

Qualified Cities

- Act 33 applies to townships and adjoining townships and incorporated villages and qualified cities.
- If reference is made in this act to townships, that reference applies to townships and incorporated villages and qualified cities.
- **Qualified City:**
 - A city with a population of less than 15,500. MCL 41.810(2)(b).

8

Noticing Requirements

- **First Public Hearing:**

Purpose:

- MCL 41.801(4): the City Council shall estimate the cost and expenses of the police/fire motor vehicles, apparatus, equipment, and housing and fire protection, and fix a day for a [public] hearing on the estimate defraying the expenses on the properties to be benefited.

11

PA 33 Special Assessment

- Three ways to initiate a PA 33 SAD:
 1. Submit to the electors of the City; or,
 1. Owners of 10% of the property to be made into the SAD petition the City; or,
 1. Initiated by City Council. MCL 41.801(3).

Note: vote is not set on the amount of the SAD; just whether a SAD should be created.

9

Noticing Requirements

Noticing the first Public Hearing:

- Public notice: must comply with OMA [date, time, place/address, phone number]
- Publish in newspaper not less than 5 days before the hearing.
 - Notice must state time/place/phone number/purpose of hearing.
- MCL 411.741(1): Notice shall be given to each owner of or party in interest in property to be assessed at least 10 days before the date of the hearing via first class mail.
- Objections may be offered at the first public hearing against the SAD boundary, plan/estimate and creation of the SAD. Right of referendum if 10% of land owners in district petition.
- After the first public hearing: Adopt a resolution confirming the special assessment district, confirming the plan/costs and expenses and directing the Mayor to spread the levy on the roll.

12

Noticing Requirements

- **Second Public Hearing:**

Purpose:

- To hear objections to the distribution of the special assessment levy on the taxable properties in the City.
- This hearing must be held and noticed in the same manner and with the same notice as the first public hearing.
- After the second public hearing: Adopt a resolution approving the assessment on the roll, which is then levied on the December tax bill.

13

Annual Hearing

- MCL 41.801(4): The City Council shall annually determine the amount to be assessed in the district for police/fire protection, shall direct the Mayor to distribute the special assessment levy, and shall hold a hearing on the estimated costs and expenses of police and fire protection and on the distribution of the levy.
- Each year the City holds a Public Hearing to set the SAD levy for the following year.
 - Same noticing requirements apply: mailed and published.

14

Procedure Summary

- Pass resolution to set a date on setting the district, determining the estimated plan/costs and expenses. (first public hearing)
- Notice first Public Hearing
 - Mailed notice at least 10 days before hearing by first-class mail to all property owners to be benefitted by the assessment, except those exempt from the collection of property tax.
 - Publish in a local newspaper at least 5 days before hearing.
- Hold First Public Hearing
 - Pass a resolution confirming the district and the cost estimate and directing the Supervisor to spread the total amount on the taxable properties within the City.
- Notice Second Public Hearing
 - Mailed notice at least 10 days before hearing by first-class mail to all owners property to be benefitted by the assessment, except those exempt from the collection of property tax.
 - Publish in a local newspaper at least 5 days before hearing.
- Hold Second Public Hearing
 - Hear Objections to Special Assessment Levy
 - Confirm or amend roll
 - Pass a resolution confirming the roll and direct the Mayor to spread the levy on the roll (winter tax bill)

15

CITY OF GALESBURG

KALAMAZOO COUNTY, MICHIGAN

Minutes excerpt of a regular meeting of the City Council of the City of Galesburg, Kalamazoo County, Michigan, held at the City Hall, 200 East Michigan Ave., Galesburg, Michigan 49053, on the ____ day of _____, 2023, _____ p.m. local time.

PRESENT: Members:

ABSENT: Members:

The following resolution was offered by Councilperson _____ and supported by Councilperson _____:

SPECIAL ASSESSMENT RESOLUTION

**DECLARATION OF INTENT TO TENTATIVELY DESIGNATE
CITY OF GALESBURG POLICE SERVICES
SPECIAL ASSESSMENT DISTRICT
AND FOR NOTICE OF PUBLIC HEARING**

WHEREAS, PA 33 of 1951, as amended (“Act 33”) provides that the City Council may proceed and exercise the powers granted by Act 33 to establish a special assessment district for the provision of Police Protection services, including the operations of a police department and for the purchase/maintenance of equipment needed to provide Police Protection services (“Improvements” as the term is used in Act 33); and

WHEREAS, the historic provision of Police Protection services in the City should continue and the City shall continue to provide Police Protection services through its own Police Department; however, it has been determined that the general fund cannot support the Police Department without the provision of additional funding; and

WHEREAS, Act 33 provides the means to finance the provision of Police Protection services, including the purchase/maintenance of equipment used in providing the same.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. The City Council intends to proceed to establish a special assessment district for the provision of Police Protection services, including operations and equipment purchases.

2. The budget and cost estimate for the provision of Police Protection services in the City shall be filed with the City Clerk.

3. The City Council hereby tentatively designates a special assessment district known as the “City of Galesburg Police Protection Special Assessment District,” consisting of all parcels in City of Galesburg, against which parcels all or a portion of the cost of said Improvements shall be assessed.

4. Said budget and cost estimate shall be filed with the City Clerk.

5. The City Council shall hold a public hearing on _____, 2023 at _____ p.m., local time, at the City Hall, 200 East Michigan Ave., Galesburg, Michigan 49053, to hear and consider objections to the petitions, the proposed Improvements, the special assessment district tentatively designated herein, and to all other matters relating to the Improvements.

6. The City Clerk shall cause to be published a notice of hearing in a newspaper of general circulation within the City not less than five (5) days before the date of the public hearing and a proof of publication of such notice shall be filed with the City Council.

7. The City Clerk, at least ten days prior to the date of the hearing, shall cause a notice of the hearing by first class mail addressed to be sent to each record owner of or party in interest in each parcel of land to be assessed, at the address shown for such record owner or party in interest upon the last City tax assessment roll for ad valorem tax purposes which was reviewed by the Board of Review, as supplemented by any subsequent changes in the names or addresses of the owners or parties listed thereon (except in the case of railroad companies, which shall be mailed a notice of the hearing by registered mail within five days after the first publication of the notice in Paragraph 7, herein); provided, that if a record owner’s name does not appear on the City tax

assessment records, then the notice required by this paragraph shall be given to the record owner at the address shown by the records of the Kalamazoo County Register of Deeds.

8. All resolutions or parts of resolutions in conflict herewith are hereby rescinded.

YEAS: Members: _____

NAYS: Members: _____

RESOLUTION DECLARED ADOPTED.

Lisa A. McNees, Clerk
City of Galesburg

STATE OF MICHIGAN)
) ss.
COUNTY OF KALAMAZOO)

I, Lisa A. McNees, the duly qualified and acting Clerk of the City of Galesburg, Kalamazoo County, Michigan (the "City"), do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City at a _____ meeting thereof held on _____, 2023, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267 of the Public Acts of Michigan of 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this ____ day of _____, 2023.

Lisa A. McNees, Clerk
City of Galesburg

CITY OF GALESBURG

KALAMAZOO COUNTY, MICHIGAN

Minutes excerpt of a regular meeting of the City Council of the City of Galesburg, Kalamazoo County, Michigan, held at the City Hall, 200 East Michigan Ave., Galesburg, Michigan 49053, on the ____ day of _____, 2023, ____ p.m. local time.

PRESENT: Members:

ABSENT: Members:

The following resolution was offered by Member _____ and supported by Member _____:

SPECIAL ASSESSMENT RESOLUTION

**DECLARATION OF INTENT TO TENTATIVELY DESIGNATE
CITY OF GALESBURG FIRE PROTECTION SERVICES
SPECIAL ASSESSMENT DISTRICT
AND FOR NOTICE OF PUBLIC HEARING**

WHEREAS, PA 33 of 1951, as amended (“Act 33”) provides that the City Council may proceed and exercise the powers granted by Act 33 to establish a special assessment district for the provision of fire protection services, including the purchase/maintenance of equipment needed to provide fire protection services (“Improvements” as the term is used in Act 33); and

WHEREAS, the City has historically contracted with the City of Galesburg for fire services; and

WHEREAS, the City has been notified of an exponential increase in the costs of fire and such that the costs cannot be supported by the general fund; and

WHEREAS, Act 33 provides the means to finance the provision of fire protection services, and for the purchase/maintenance of equipment used in providing the same.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. The City Council intends to proceed to establish a special assessment district for the provision of fire protection services, including operations.

2. The City Council has received an estimate for the costs of provision of fire and shall prepare a proposed budget for such services and needs ("Improvements" as the term is used in Act 33).

3. Said budget and cost estimate shall be filed with the City Clerk.

4. The City Council hereby tentatively designates a special assessment district known as the "City of Galesburg Fire Protection Services Special Assessment District," consisting of all parcels in the City, against which parcels all or a portion of the cost of said Improvements shall be assessed.

5. The City Council shall hold a public hearing on _____, 2023 at _____ p.m., local time, at the City Hall, 200 East Michigan Ave., Galesburg, Michigan 49053, to hear and consider objections to the petitions, the proposed Improvements, the special assessment district tentatively designated herein, and to all other matters relating to the Improvements.

6. The City Clerk shall cause to be published a notice of hearing in a newspaper of general circulation within the City not less than five (5) days before the date of the public hearing and a proof of publication of such notice shall be filed with the City Council.

7. The City Clerk, at least ten days prior to the date of the hearing, shall cause a notice of the hearing by first class mail addressed to be sent to each record owner of or party in interest in each parcel of land to be assessed, at the address shown for such record owner or party in interest upon the last City tax assessment roll for ad valorem tax purposes which was reviewed by the Board of Review, as supplemented by any subsequent changes in the names or addresses of the owners or parties listed thereon (except in the case of railroad companies, which shall be mailed a notice of the hearing by registered mail within five days after the first publication of the notice in Paragraph 7, herein); provided, that if a record owner's name does not appear on the Village tax

assessment records, then the notice required by this paragraph shall be given to the record owner at the address shown by the records of the Kalamazoo County Register of Deeds.

8. All resolutions or parts of resolutions in conflict herewith are hereby rescinded.

YEAS: Members: _____

NAYS: Members: _____

RESOLUTION DECLARED ADOPTED.

Lisa A. McNees, Clerk
City of Galesburg

STATE OF MICHIGAN)
) ss.
COUNTY OF KALAMAZOO)

I, Lisa A. McNees, the duly qualified and acting Clerk of the City of Galesburg, Kalamazoo County, Michigan (the "City"), do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City at a _____ meeting thereof held on _____, 2023, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267 of the Public Acts of Michigan of 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this ____ day of _____, 2023.

Lisa A. McNees, Clerk
City of Galesburg