

**MINUTES OF REGULAR MEETING
GALESBURG CITY COUNCIL
NOVEMBER 5, 2007; 7:00 P.M.
COUNCIL CHAMBERS,
GALESBURG CITY HALL
200 E. MICHIGAN AVE.
GALESBURG, MI**

GALESBURG

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I. CALL TO ORDER

The meeting was called to order at 7:00 P.M. by Acting Mayor Allen.

PRESENT: Commissioners Doxey, Jackson,
Kissinger, Nicolow, Yingling, Allen

ABSENT: None

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Acting Mayor Allen.

III. COMMUNITY COMMENT

Linda Carlton, Chair of the Downtown Development Authority reported on their Fall Fundraiser. They raised \$1,207.65 in sales and received another \$1,555.00 in other donations. The Haunted House raised \$635.00. Seventeen students from the High School came and helped out with the event. Mayor Allen donated his time and took kids on a Hayride in Galesburg Community Park. The bake sale was a huge success and Commissioner Marian Doxey and the staff from the Library Staff helped with that. She asked City Attorney Soltis about the provisions of the Open Meetings Act insofar as it aspects the Members of City Council who may want to attend a DDA Board Meeting. If City Commissioners come to a DDA meeting would it require that a meeting of the City Council be posted? Also, if a quorum of DDA Board members is not present, may they still conduct their meeting and accept informational comment from the public so long as they do not take any action?

Attorney Soltis said that lacking a quorum of board members, no business may be conducted. They cannot even call the roll. They may not refer business, nor may they make any decisions. With regard to the question about a sufficient number of Council members to constitute a quorum attending a DDA meeting, Council members may certainly attend meetings of other public bodies, out of their own personal interest. So long as they do not represent themselves as acting in their official elected capacity to conduct the business of the City, they may attend the meetings of other bodies.

IV. READING AND APPROVAL OF COUNCIL MINUTES

Motion by Commissioner Nicolow, supported by Commissioner Doxey to approve the minutes of the October 15, 2007 City Council Meeting as submitted.

MOTION APPROVED BY THE FOLLOWING VOTE:

YEAS: Commissioners Doxey, Jackson, Nicolow,
Yingling, Allen

NAYS: None

ABSTAIN: Commissioner Kissinger

V. CORRESPONDENCE

- a. Letter from Comcast Cable providing notice of the restructuring of their late fees

RECEIVED AND PLACED ON FILE

- b. Letters from the Kalamazoo County Health & Community Services re:

- Household Hazardous Waste Center submitting the H₂W Report, the quarterly report of the Household Hazardous Waste Center
- Environmental Health Office Methamphetamine Response Team report on the cleanup of 196 properties in Kalamazoo County
- Agreements for the provision of Household Hazardous Waste Services for 2008 between the City of Galesburg and Kalamazoo County

RECEIVED AND PLACED ON FILE

- c. Letter from Comcast Cable providing notice of changes in the cable television lineup

RECEIVED AND PLACED ON FILE

- d. Letter from the Kalamazoo County Drain Commissioner providing an updated copy of Table 7 for the Kalamazoo River Mainstem 3 Corridor Watershed Management Plan

RECEIVED AND PLACED ON FILE

VI. PUBLIC HEARINGS

There were no scheduled public hearings.

VII. ACTION ITEMS

There were no action items.

VIII. REPORTS OF OFFICERS & BOARDS

a. Treasurer

Motion by Commissioner Kissinger, supported by Commissioner Jackson to accept the Treasurer's Report.

MOTION APPROVED BY THE FOLLOWING VOTE:

YEAS: Commissioners Doxey, Jackson, Kissinger, Nicolow, Yingling, Allen

NAYS: None

b. Accounts Payable

Motion by Commissioner Kissinger, supported by Commissioner Jackson to pay the bills as presented by the Clerk.

MOTION APPROVED BY THE FOLLOWING VOTE:

YEAS: Commissioners Doxey, Jackson, Kissinger, Nicolow, Yingling, Allen

c. Department of Public Works

Rob Wilson, DPW Supervisor announced that the electrician will be here this week, or by the first of next week to finish the work on pump house #1. The work is mostly complete. The building is up, the floor is down and the pump should be in next week. We should be able to have the well up and running within a week. Both towers will be running. The DPW is out picking up leaves. The Michigan Municipal League Claims Adjuster was out last week and toured the pump house construction. Everything above ground should be covered, not including the \$1,000 deductible on our insurance policy. Everything underground is not covered and is the responsibility of the City. He does not have a final figure on these costs at this time. The demolition of the old water tower was to have taken place the first week in December, but due to unforeseen circumstances, that has been pushed back. Everything is running about one month behind schedule. The old drinking water revolving fund loan is due to close at the end of December.

Acting Mayor Allen asked Mr. Wilson how the tree removal is going. Rob answered that it is going right along. They have discovered that some unknown person is going along behind them and cleaning up the brush and chip piles they create.

d. Police

Chief Mau reported that the decommissioned 1996 Crown Victoria police cruiser has been duty stripped and the lettering has been taken off of it. The City can put a for sale sign on the car and accept bids on it. He suggests that for sale signs be posted around town to give anyone who may be interested an opportunity to bid on it. The signs should include a disclaimer saying that the City has the right to refuse any and all bids.

Acting Mayor Allen asked how much the car is worth. Chief Mau said about \$800.

Motion by Commissioner Kissinger, supported by Commissioner Jackson to put the decommissioned police car up for sale on a bidding system, to be sold by the next Council meeting on November 20, 2007.

MOTION APPROVED BY THE FOLLOWING VOTE:

YEAS: Commissioners Doxey, Jackson, Kissinger, Nicolow, Yingling, Allen

NAYS: None

Chief Mau asked for approval to reimburse Officer Thompson for three pair of uniform pants that he purchased at a cost of \$199.00. He has adequate funding approved in his budget for uniforms. He still needs to purchase new vests, which run about \$200-\$500 each. This is also in the budget.

Motion by Commissioner Nicolow, supported by Commissioner Kissinger to approve paying reimbursement to Officer Thompson.

MOTION APPROVED BY THE FOLLOWING VOTE:

YEAS: Commissioners Doxey, Jackson, Kissinger, Nicolow, Yingling, Allen

NAYS: None

Chief Mau said the new police cruiser is in use and has been fully equipped and striped.

Commissioner Nicolow asked Chief Mau about the warnings included in the Police Report that do not have a street address included. Chief Mau responded that there is a problem with publication of these addresses. Commissioner Nicolow said that since this report only goes to council members, they should be able to see

where the addresses are. They used to get this information, why has it changed?

Chief Mau stated that the question is about giving out an address in the absence of a violation documented by issuance of a citation.

Chief Mau said that the new car will be going to RoCom to get the new E-Ticket technology installed. This is paid for by grants. The County is doing away with the modem system and the car will be going wireless. The County will pay for this in the short term, but in the long term it will cost the City approximately \$50-\$100 per month. This is not in the budget. We may also need software upgrades which are not budgeted.

Motion by Commissioner Nicolow, supported by Commissioner Jackson to accept the Police Report.

MOTION APPROVED BY THE FOLLOWING VOTE

YEAS: Commissioners Doxey, Jackson, Kissinger, Nicolow, Yingling, Allen

NAYS: None

IX. NEW BUSINESS

a. Galesburg Historical Museum

Keith Martin, Coordinator of the Museum distributed a copy of sections 2.91 through 2.95 of the code of ordinances and said that in the past there has been a problem between the City Administration and the Museum Board. They think the problem is gone now, there is a new Council, new Administration, and new Museum Board Members. They have been trying very hard to follow all the rules. They need to look to the future. Their building is getting very full. The issue of who owns their building needs to be addressed. The City has a couple of thousand dollars invested in the building and the Museum Board has many thousands of dollars invested in the building. They do not want to have a dispute over ownership of the building and are willing to cede ownership of the building to the City, but they do care about ownership of the contents, or artifacts, of the Museum. The Museum Board wants to own the artifacts and is willing to pay for the insurance on the artifacts. They want the future of the Museum to fit in with the future of Galesburg and to move forward like the City is.

Acting Mayor Allen told Mr. Martin that he received a letter from Kay Maxson and he shared that letter with other Council members and with the City Attorney. He asked City Attorney Soltis to opine on the request set forth in the letter.

City Attorney Soltis said that this request is not much different from what was discussed in 2003 and 2004.

The Museum is run by the Museum Board, and they are a Board of the City. The ordinance refers to an advisory board of the Historical Museum Organization. Their efforts are appreciated, but the Museum is run by a Board which is an arm of the City. Items donated to the Museum belong to the City and are City property. The City is not legally able to give its items away. Just as in the case of the police car, the transfer of property owned by the City has to be done with respect to everyone in the City being able to receive it. He is not even sure if they have records showing whether everything in the Museum is donated to the Museum, or on loan. Keith Martin said they have been keeping records on donations versus loans for the past 2-3 years, but not prior to that. Attorney Soltis said that means they would have to say that the items that were donated previous to the last 2-3 years were gifts not loans. This Museum was set up to be part of the City. That is the way the Ordinance treats it. He asked Mr. Martin to keep in mind that the donations that are rolled into the 501.3(c) group may not be covered under the City's insurance policy. These items could not be returned to the donator, only sold at fair market value.

Acting Mayor Allen said that no one is going to sell anything from out of the Museum. He does not know what the problem is, but the City Council does not have a problem. They appreciate the volunteers at the Museum. It is hard to get people to roll their sleeves up and do volunteer work, so when they do, you show your appreciation for it.

Attorney Soltis said that the ordinance provides that gifts given to the Museum can only be under the control of the Museum Board, they cannot be used by the City.

X. OLD BUSINESS

a. Water & Sewer Connection Fee Structure

Attorney Soltis said that the issue is that there is a fundamental lack of agreement, no meeting of the minds. The two parties do not agree on how much money we are talking about or how to arrange for payment. The City's engineers work for the City. They will bill the City and they are entitled to be paid for their work promptly. If there is a bill that comes in for work on the Rosenberger project, should the City have to front that money and then collect from Mr. Rosenberger. This leaves too much room for misunderstandings and could lead to law suits. One way to handle this is to establish an escrow fund of some sort into which Mr. Rosenberger could deposit sufficient funding to pay for the bills as they are sent to the City. Other issues to be discussed are what is the exact amount of the connection fee and what is the length of time for the completion of the project, how long is the agreement on those fees good for? They discussed using the consumer price index to calculate a yearly increase after five (5) years have

passed. Without an overall agreement between the two parties with respect to the charges billed by the engineering and legal firms we are at an impasse.

City Clerk Miner relayed figures received from Prein and Newhof related to a development they did this year in the City of Portage. This development was for 26 units, not the 50+ planned by Mr. Rosenberger. However, using the figures supplied by Prein and Newhof, the figures for Mr. Rosenberger's development can be extrapolated and they exceed \$30,000. She has given information about these types of expense to the Council and to Mr. Rosenberger before. Every time we go back to our engineers and ask them to supply us with more information it costs us more money.

Rich Rosenberger said that the fees purported to be charged by the City Clerk are not right. They are too high. There is no need for this kind of expense. He asked the City for permission for his engineering firm, Wolf Excavating, to contact the City's engineering firm and talk them into a reasonable compromise with regard to what they will bill for.

City Clerk Miner said that, insofar as the City has paid their engineering firms for this information on Mr. Rosenberger's behalf three (3) times now, she is reluctant to agree to another expenditure of funds for the same information a fourth time.

Acting Mayor Allen asked Mr. Rosenberger if he would be willing to pay for the expense referred to by the City Clerk for negotiating a price with the City's engineer.

Rich Rosenberger said he would just like permission for Pat Flannigan at Ingersoll to meet with the City's engineer.

Commissioner Kissinger asked Mr. Rosenberger if he would up his water/sewer connection fee payment to \$900 per unit. Rich Rosenberger answered yes. He said that he has tried, with his attorneys to bring this issue to a reasonable conclusion. The City should be able to raise those costs in the future when their costs go up. His attorneys are aware of that.

Rob Wilson, DPW Supervisor said that the price goes up every year. There should be an automatic increase once per year based on the cost of living increase. It should be every year, not every five years as proposed by Rosenberger's attorneys.

Commissioner Kissinger said that the City will incur expenses for Rob and Bills time, and they will likely be there daily. There is the expense of the City Clerk's time and the Utility Clerk's time and the Treasurer's time.

City Attorney Soltis asked what the Council is feeling with regard to connection fees. Will they be paid at the same time as the building permit is drawn?

Acting Mayor Allen said that is how it works. All permit fees are paid at one time.

Motion by Commissioner Nicolow, supported by Commissioner Jackson to authorize the City's engineer to discuss their charges for this project with Pat Flannigan at the expense of Rich Rosenberger.

MOTION APPROVED BY THE FOLLOWING VOTE:

YEAS: Commissioners Doxey, Jackson, Kissinger, Nicolow, Yingling, Allen

NAYS: None

b. Policy for Use of Guthrie Room by Non-Profit Groups

City Clerk Miner reported being unable to find an agreeable time for all parties appointed to consider this issue to meet.

It was agreed upon that DPW Supervisor Wilson, City Clerk Miner, Commissioner Jackson and Commissioner Yingling will meet at 10:00 a.m. this coming Thursday.

XI. COUNCIL COMMENT

Commissioner Yingling congratulated the residents of 35th St. on the excellent job they did of decorating for Halloween. It was great.

Acting Mayor Allen reported that last Wednesday, He along with DPW Supervisor Wilson showed interested investors the Snyder building. They have since stated that they are interested in purchasing the building. They are involved in doing a title search right now and a purchase agreement is being prepared. This will get this property off of Mrs. Harrisons back. She does not want the building and cannot care for it anyway.

XII. ADJOURNMENT

Motion by Commissioner Kissinger to adjourn, supported by Commissioner Jackson.

MOTION CARRIED UNANIMOUSLY

Meeting adjourned at 8:50 P.M.