

**MINUTES OF REGULAR MEETING
GALESBURG CITY COUNCIL
DECEMBER 3, 2007; 7:00 P.M.
COUNCIL CHAMBERS,
GALESBURG CITY HALL
200 E. MICHIGAN AVE.
GALESBURG, MI**



GALESBURG

200 E. Michigan Avenue
Galesburg, Michigan 49053
Phone: (269) 665-7000
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I. CALL TO ORDER

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

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

ABSENT: None

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Allen.


Mayor Allen asked for a motion to amend the agenda to move item number VII. A, Special Ceremony – “Galesburg, Michigan *Business Week's* 49th Best City to Live In” to this part of the meeting.

Rob Wilson, Supervisor of the Department of Public Works announced that he will attend a conference tomorrow to receive an award for the City for improving the quality of life in Galesburg from the Michigan Association of Engineers.

Motion by Commissioner Kissinger, supported by Member Jackson to amend the agenda to move the special ceremony up to this point of the meeting.

MOTION ADOPTED UNANIMOUSLY

Mayor Allen read the following proclamation into the record.



**GARY L. ALLEN, MAYOR
CITY OF GALESBURG,
MICHIGAN
PROCLAMATION**

WHEREAS, *Business Week* has selected Galesburg as one of the top 50 Cities in the United States in which to live and raise a family; and

WHEREAS, as the Mayor of Galesburg, former Fire Chief, and community activist I have first hand knowledge of the commitment of time and effort

required by citizen volunteers, city administration, school district administration and business organizations to put together the type of quality services that make a city a vibrant desirable place to live; and

WHEREAS, the public safety services provided by the Galesburg Police and Fire Departments with the assistance of Law Enforcement and Fire Safety Officers from neighboring communities has resulted in Galesburg's ranking 15th in the top 50 Cities in the U.S.; and

WHEREAS, the efforts of the Galesburg Augusta School District Administration and the hard working Teachers and Staff of the School District has resulted in successful student test scores that rank Galesburg 19th in the top 50 Cities for Schools; and

WHEREAS, the Department of Public Works for the City of Galesburg provides valuable and desirable services to the residents of Galesburg at minimal cost including; maintenance of the City's Parks and Recreation System, operation of the water and sewer utility system, Street Maintenance, care of the Galesburg cemeteries and the care and maintenance of City Facilities, resulting in Galesburg ranking 29th in the top 50 Cities for Recreational/cultural activities, and

WHEREAS, the Galesburg Business Association and Downtown Development Authority spend countless volunteer hours working to ensure a healthy, successful business climate; and

WHEREAS, the Members of the Galesburg City Council do a yeoman's job for minimal pay and donate large amounts of their time to keep the City of Galesburg healthy and vibrant.

NOW THEREFORE, I GARY L. ALLEN, MAYOR OF THE CITY OF GALESBURG, HEREBY PROCLAIM Monday, December 3, 2007 to be Public Employee and Volunteer day in Galesburg and express appreciation to the afore mentioned employees and volunteers for their hard work and devotion for making Galesburg a great place to live and raise our children.

GARY L. ALLEN, MAYOR, DECEMBER 3, 2007

Mayor Allen thanked all volunteers, employees and council members, both past and present, for the contribution they have made to the City.

He said that there is really no way of documenting all of the volunteers who have contributed to the health and welfare of the city, but he cannot say enough good things about volunteers and what they contribute.

III. COMMUNITY COMMENT

John Bergeon of Gale Valley Estates stated a complaint about the reduction in force of the Galesburg Police Department. One fulltime officer has been cut down to part time hours. He feels that the Council is risking their protection to save money. This particular officer follows up on their calls and handles their area very well. He is opposed to this change in the police department and thinks it is a mistake. He wants to know if he needs to get a petition together to get this situation turned around.

Chief Mau explained that the City is not really decreasing public safety hours. We are getting another part time patrol officer who will provide the same coverage as in the past.

Mr. Bergeon said that Gale Valley Estates feels like they are losing protection. This police officer does a good job.

Commissioner Nicolow said that this move does not make sense to him.

Mr. Bergeon repeated that this is a mistake and this move should not be carried out.

Commissioner Nicolow questioned the ethics of this move.

Jim Krim, no address given, said that if the City cuts this officers hospital benefits he may have to seek work in another city that will provide hospitalization. If that happens he could wind up working more hours in another job to get the insurance benefits that he used to get in Galesburg.

IV. READING AND APPROVAL OF COUNCIL MINUTES

Motion by Commissioner Nicolow, supported by Commissioner Jackson to correct the minutes of November 19, 2007 on page 1170 to accurately reflect that both Commissioners Allen and Nicolow gave dissenting votes on the motion for reduction in force on the Police Department, and to approve the minutes as corrected;

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

V. CORRESPONDENCE

1. Letter from Comcast Cable informing the City of a change in their channel lineup and pay per view pricing.

RECEIVED AND PLACED ON FILE

2. Letter from the State of Michigan Department of Treasury submitting local government fiscal distress indicators to allow municipalities to evaluate their financial situation.

RECEIVED AND PLACED ON FILE

3. Letter from the State of Michigan Department of Environmental Quality providing extension on (unidentified) permit for construction until December 31, 2009

RECEIVED AND PLACED ON FILE

VI. PUBLIC HEARINGS

There were no scheduled public hearings

VII. ACTION ITEMS

- A. Special Ceremony – Galesburg, Michigan *Business Weekly's* 49th Best City to Live In

MOVED BY AMENDMENT TO THE AGENDA FOR PRESENTATION DIRECTLY FOLLOWING THE PLEDGE OF ALLEGIANCE

Resolutions for Action

**RESOLUTION #12032007 - 01
AGREEMENT BETWEEN
THE CITY OF GALESBURG, KALAMAZOO COUNTY,
MICHIGAN
BY AND THROUGH ITS CITY COUNCIL
AND
ROSENBERGER DEVELOPMENT, LLC A/K/A
CORNERSTONE CONSTRUCTION
FOR WATER/SEWER INFRASTRUCTURE
DEVELOPMENT AT
Midway Villa Condominiums
(Property formerly known as 225 Blake, 231 Blake
and 241 Blake, the vacant property located on the
site of the old G-A Elementary School)**

This Agreement, made this _____ day of _____, 200 , between the City of Galesburg, County of Kalamazoo, Michigan (the City) a municipal corporation located at 200 E. Michigan Ave., Galesburg, MI 49053 and Rosenberger Development, LLC a/k/a

Cornerstone Construction Inc. (the developer) located at 10328 M-89 Hwy., Richland MI 49083.

WITNESSETH

WHEREAS, the City owns and operates a water and sewer system and has the capacity to serve residents of Midway Villa Condominiums; and

WHEREAS, the Developer is desirous of connecting the homes in Midway Villa Condominiums to the City's water distribution and sewer system; and

WHEREAS, the City has established a fee schedule for connection to its water distribution and sewer system that takes into account the cost of providing for the underlying infrastructure that serves the development as well as for the cost for customer service connection to each individual residential unit within the development and production and storage needs; and

WHEREAS, the City and the Developer wish to modify the fee schedule for connection to the City's water distribution and sewer system to provide for lower fees that will allow the Developer to proceed with construction of his development project.

NOW, THEREFORE, in consideration of the making of this agreement for reduced water distribution and sewer system connection fees and the rights and obligations there under, the parties agree as follows:

1. Definitions. For the purpose of this Agreement, the terms set forth in this Agreement shall have their ordinary meaning unless otherwise indicated hereinafter.

a. Water Distribution System: The system of water mains, pipes, fittings, valves, fire hydrants, transmission lines and all accessory equipment and appurtenances thereto, for providing, transmitting and distributing potable water.

b. Customer Service Connections: The pipes from the water mains to the water meters, including all necessary valves and accessories.

c. Production Facilities: The wells, pumps, buildings, chemical treatment equipment, collector mains and all appurtenances that together act to supply potable-water to the transmission and distribution system.

d. Storage Facilities: The elevated or ground tanks and all appurtenances that serve to store a quantity of water for the water system and to establish and maintain an even pressure in an area.

2. Midway Villa Condominiums, this agreement shall apply to the Midway Villa Condominiums development project at the property formerly known as 225 Blake, 231 Blake and 241 Blake, the vacant

property located on the site of the old G-A Elementary School.

Developer shall pay to the City at the time of obtaining building permits for each residential unit the sum of \$900 as the water/sewer connection fee.

In exchange for a reduction of the Water/Sewer Connection fee to \$900 per residential unit, the Developer hereby agrees to accept the financial responsibility for construction of the infrastructure system needed to supply water and sewer services to the Midway Villa Condominium project, including but not limited to all reasonable charges for;

- Engineering fees billed to the City
- Construction Technician/Examiner fees billed to the City
- Equipment Charges
- Mileage Charges
- Material Costs
- Testing
- All the City's Legal Fees associated with approval of the project

And;

The Developer hereby agrees to transfer to the City, within thirty (30) days of the date of this agreement, an amount sufficient to pay for said infrastructure development, said amount to be held in escrow by the City and used solely for the purpose of paying for the above stated expenses which have been and will be incurred by the City.

The Developer agrees that the infrastructure constructed and any legal and financial documents associated with it are the sole property of the City.

The Developer further agrees that fees herein shall be adjusted according to an appropriate Consumer Price Index annually on the anniversary date of this agreement.

Upon acceptance and execution of this agreement by the Developer this agreement shall constitute a contract between the City of Galesburg and Rosenberger Development LLC a/k/a Cornerstone Construction for the property described herein only for a period of five (5) years from the date of execution.

The City reserves the right to amend this contract from time to time, upon the agreement of both parties.

IN WITNESS WHEREOF, this contract is signed and delivered the day and year first written by authority of the City Council given December 3, 2007, and Rosenberger Development LLC, a/k/a Cornerstone Construction given _____, 200 .

CITY OF GALESBURG

By: Gary Allen
Its: Mayor

By: Debbie Miner
Its: City Clerk

ROSENBERGER DEVELOPMENT
A/K/A CORNERSTONE CONSTRUCTION

By: Rich Rosenberger
Its: Owner/Operator

By:
Its:

Motion by Commissioner Yingling, supported by Commissioner Doxey to approve the **Agreement with Rosenberger Development LLC** as presented by the City Clerk.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

Mayor Allen stated that this agreement contains the exact terms that Mr. Rosenberger has agreed to over the course of the past 3 months. He asked Mr. Rosenberger to show good faith to the City and do what he said he would do. This is his agreement.

Rich Rosenberger said he cannot commit to this agreement. His attorneys have reviewed the agreement and informed him that the agreement only covers the Midway Villa property, not the parcel off of 35th Street on Morhouse that he expects to build on as well. He negotiated, without the presence of his lawyers, with the City for a deal to include both parcels of property, now the City is threatening him over the cleanup of the Blake Street property.

Attorney Soltis informed Mr. Rosenberger that the City cannot legally include both parcels of property in one agreement. They cannot legally tie two parcels of property together that are so disparate.

Commissioner Yingling urged Mr. Rosenberger to show the Council that he will do what he has said he would do. Show them his good intentions. Begin construction on Midway Villa and then ask them for the same agreement on the Morhouse property. The chances are very good that the Council would agree to extend the same offer to him on the second property if he makes good on his promises regarding Midway Villa.

Commissioner Kissinger agreed with the statement of Commissioner Yingling. He too, wants to see a good faith effort by Mr. Rosenberger.

Mayor Allen asked DPW Supervisor Wilson what his understanding of the project was. Are the two properties tied together for the purposes of this agreement? Mr. Wilson answered no. They have to be separate.

Rich Rosenberger said that he does not plan to completely build out Midway Villa 100% before he begins construction on the Morhouse property. At some point these two projects will both be in the construction stage simultaneously. He wants the City to recognize that he has put a lot of good faith effort into the demolition of the old school buildings. He repeated his accusation that the City is threatening him to get him to clean up the debris from demolition of the school buildings on Blake St.

An unnamed speaker, who stated that she lives on Blake St., stood and objected to Mr. Rosenberger's statement. She said that he did not do what he said he would do. There has been nothing done over there to clean up this property which exists in a dangerous condition. There are still piles of asphalt and concrete, still a big huge hole in the ground, still bricks in the street.

A second unnamed speaker reminded Mr. Rosenberger that he was given 8 weeks to clean the property up but, under the terms of a notice from the City Clerk he was only supposed to have 30 days. Now he claims he is being threatened, but he had more than ample time to do this work himself.

Rich Rosenberger said that he has not completed the cleanup because he does not want to haul the asphalt off the site. He has a pulverizing machine that he wants to use to pulverize the asphalt and save some money. He asked the City to meet with him and identify the areas on the property that they want to see addressed. He is not aware of the problems that the City claims to exist on the property.

Linda Carlton confronted Mr. Rosenberger, asking him if it is his declaration that he has been on this property and has not seen the huge hole in the ground over there. He does not see the hole? Is the property dangerous, or not? Yes or no. Mr. Rosenberger answered that yes, in the winter, the property would be dangerous. Mrs. Carlton said that she has been sitting through these Council Meetings for months watching Council members going over the same thing again and again with him.

Mr. Rosenberger said all he is asking for is to have the City meet with him to show him what they want done.

Motion by Commissioner Nicolow, supported by Commissioner Kissinger that Mayor Allen, Deputy Mayor Jackson and DPW Supervisor Wilson meet with Mr. Rosenberger at the old GA Elementary School property, point out the areas that constitute a dangerous nuisance and tell him what needs to be done.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

VIII. REPORTS OF OFFICERS & BOARDS

a. Treasurer

The Treasurer's Report was removed from the agenda at the request of the City Clerk

b. Accounts Payable

The City Clerk submitted lists of accounts payable amounting to \$44,408.69. This includes a Morhouse Bond Fund payment in the amount of \$11,575 and the Fire Board Payment in the amount of \$27,625.00 along with monthly payables in the amount of \$5,208.69.

Motion by Commissioner Nicolow, supported by Commissioner Kissinger to pay the bills.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

c. Department of Public Works

Supervisor Wilson said that they are still working to get the well back up and running. There are some people coming down on Thursday to adjust the slip valves. He received an email today from Darlis Sherby, the lead man on the demolition of the old tower from CBI Contractors. They want to push the demolition back until spring because of the danger from ice on the tower. They do not have a provision in their contract to deal with liability insurance on this. They are checking the new contract to make sure there is no cost increase associated with pushing the demolition back until the spring. Mayor Allen informed him today that it is okay to postpone the demolition, but the City wants it in writing that there is no cost increase to the City to do so. Otherwise things are going along okay.

Commissioner Kissinger asked if the old tower would be shut off in the meantime, or will we leave both going? Mr. Wilson said it would be shut off.

Commissioner Nicolow asked if we have to keep the water in the old tower, or do we drain it? Mr. Wilson answered that we have to drain it, if we do not, the old tower will overflow constantly.

Mayor Allen spoke regarding the snowfall last Saturday, and the plowing of the City Streets. There was only 1 ½ inches of snow, but they decided to go ahead and plow

anyway, because they thought it might freeze and become dangerous for driving.

d. Police

Chief Mau reported that all of the officers have qualified for all of their certifications this year. However, they did run out of ammunition and he needs permission to purchase another case of ammunition at a cost of \$290.00.

Motion by Commissioner Kissinger, supported by Commissioner Nicolow to approve the purchase of ammunition by the Police Department in the amount of \$290.00.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

Chief Mau asked Council to approve a carryover of vacation time for both himself and Sgt. Heppler for this year. Neither of them has been able to use all of their vacation time because the illness of Officer Thompson left them shorthanded for four months.

Motion by Commissioner Nicolow, supported by Commissioner Kissinger to waive the personnel policy requirements to allow the Police Chief and Sgt. to carryover their vacation time into next year.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

Motion by Commissioner Nicolow, supported by Commissioner Kissinger to accept the Police Report as submitted by Chief Mau.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

IX. NEW BUSINESS

Mayor Allen reported on the purchase of new holiday banners for downtown light poles. The cost of the banners plus brackets to hang them totals \$1,755.00. Linda Carlton of the Downtown Business Association has agreed to poll her Board to see if they would be willing to pay for ½ of the cost of the materials which

equals approximately \$900.00. They were planning on ordering the banners to have them available for next year, but in talking to Kalamazoo Banner Co. they found they could get them in 2-3 business days, in time to put them up this year. They were later informed that perhaps 2-3 days was impractical, but they could get the banners by the end of this week and perhaps have them up next week.

Motion by Commissioner Nicolow, supported by Commissioner Yingling to approve the purchase of banners and materials to hang them in the amount of \$1,755.00.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

X. OLD BUSINESS

A. Contract with Fleis & Vandenbrink Engineering, Inc.

Attorney Soltis informed Council that they need an indemnification clause in the contract. They have not signed their contract yet. There is more to consider here than just the hourly rate.

Mayor Allen reminded Attorney Soltis that the City has never received the rate structure.

Attorney Soltis said only time will tell if the Fleis & Vandenbrink contract will cost the City more than the one with Prein & Newhof or not. One engineer might charge more for one service than another but may have a different operational imperative that functionally takes only half as much time as another. He reminded Council that they elected to go with Fleis & Vandenbrink because they were not happy with Prein & Newhof because they did not put the City's interest first in the Town Line Drain project. He will bring the new language to Council, but until the new engineers show that they are not going to do their job well or are charging more than is fair, he wants the City to stay with their new contract.

Commissioner Kissinger said that Fleis & Vandenbrink have been very helpful to the DDA, at no charge.

Mayor Allen said it is up to the Council to do what they want to do, stay where we are, or go back to Prein & Newhof.

Mike VanNess said that he thought the issue was that the old engineer firm had possession of information that the new company does not have and they were going to charge the City to turn it over to them.

Attorney Soltis stated that he would write a letter to Prein & Newhof saying that the files are the property of the City of Galesburg and they are being directed to turn them over to Fleis & Vandenbrink at no charge.

Mayor Allen said that he feels that the City should go out to bid every 2-3 years on this contract.

Rob Wilson said that is what we used to do, but we kept going back and forth with the same situation we are in right now with trying to get information from one firm back to another.

Motion by Commissioner Kissinger, supported by Commissioner Jackson to stay with the firm of Fleis and Vandenbrink for our engineering contract.

MOTION APPROVED BY THE FOLLOWING VOTE:

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

NAYS: None

B. Tabled Item; Community Use Policy

The Clerk reported that they have not had an opportunity to meet to reconsider this resolution as of yet. This item will remain on the table until such time as a motion has been made to raise it from the table.

XI. COUNCIL COMMENT

Commissioner Yingling reported that the Museum Board would like to meet with the Council at 6:00 P.M. on December 17, 2007 at the Museum, prior to the Council meeting.

She noted that a special meeting notice must be posted showing a joint meeting of the City Council and the Museum Board.

Commissioner Jackson stated that part of the reason for cutting our police officer down to part time is because we did without him all summer. He was off on sick leave for four (4) months. With 2 part time officers the Police Department could give the City more coverage.

Mayor Allen directed the City Clerk to send the Fire Board a letter outlining her method of operations so that everyone knows what is expected of them. He reminded the City Clerk that \$150 of the monthly \$750 rent payment from the Fire Board goes into a restricted fund for maintenance. He asked the Clerk to make sure that a report from the Fire Department is added as a permanent item on our agenda under Officer and Board Reports. He wants the Fire Board Minutes, Library Minutes, and Museum Board Minutes submitted to the Council via the agenda as well.

Commissioner Nicolow said that he is excited about the direction the City is going in and everything that is going on. He distributed a report on a Health Savings Plan that he would like Council to look at. This is an issue that they revisit every year at budget time. He explained the savings the City would realize. He said that the current health plan is inequitable to some employees, in that employees working 30 hours receive the same benefits as employees working 40 hours. He suggests setting up a health savings account that would be divided by the employees in the plan and each employee would receive a proportionate share of the payments. An employee working 40 hours would receive 100%, while an employee working 30 hours would receive 75% of the fund that they could then use to purchase their own health insurance. Right now we have a group plan that bases the pay on everyone who is in the plan.

Commissioner Kissinger reminded everyone to come down Wednesday for the Holiday Festivities.

XII. ADJOURNMENT

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

Meeting Adjourned at 8:35 P.M.

Respectfully submitted

Debbie Miner, CMC
Galesburg City Clerk