

**MINUTES OF REGULAR SESSION  
GALESBURG CITY COUNCIL  
MARCH 2, 2009; 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  
Fax: (269) 665-4541

The Regular meeting of the Galesburg City Council was called to order by Mayor Allen at 7:00 p.m.

**I. ROLL CALL:**

PRESENT: Councilmembers Garrett, Jackson, Kissinger, Nicolow, Van Ness, Yingling, Allen.

ABSENT: None.

**II. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Allen.

**III. COMMUNITY COMMENT**

Linda Carlton, President of the Downtown Development Authority reminded Councilmembers that the DDA will be taking over the arrangements for Greater Galesburg Day this year, with the help of the Fire Department. Their first planning meeting is scheduled for March 11<sup>th</sup> at 6:00 P.M. in the Guthrie Community Room. They are going to try to have a lot of activities downtown this year and have submitted a request to close Battle Creek Street for the event.

Craig Shumaker of the Fleis & Vandenbrink Engineering firm introduced himself to Councilmembers and invited them to contact him whenever they have a question he can answer.

**IV. READING AND APPROVAL OF COUNCIL MINUTES**

Motion by Councilmember Kissinger and supported by Councilmember VanNess to approve the minutes of January 27, 2009 as submitted with addendum.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

Motion by councilmember Kissinger and supported by Councilmember VanNess to approve the minutes of the regular meeting held on February 17, 2009 as submitted.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen.

NAYS: None.

**V. CORRESPONDENCE**

1. Letter from the Cable Access Center submitting their proposed budget.

Motion by Councilmember Kissinger and supported by Councilmember Jackson to approve acceptance of the Cable Access Center's 2009/2010 budget.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

2. Letters from Galesburg DDA as follows:

- a. Requesting use of the Guthrie Room on April 4<sup>th</sup> from 10:00 a.m. to 3:00 p.m. and requesting waiver of the rental fee.

Motion by Councilmember VanNess and supported by Councilmember Nicolow to approve the request from the DDA for waiver of the rental fee for the Guthrie Community Room on April 4, 2009.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

- b. Notification of Intent for the DDA to take over the Greater Galesburg Day event and

requesting closure of Battle Creek St. from Church St. to Mill Street

Motion by Councilmember Nicolow and supported by Councilmember VanNess to approve the closing of Battle Creek Street for the Greater Galesburg Day Events as requested by the DDA.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

c. Letter regarding the majority vote of the DDA for the removal of Sunshine Cadwell as a DDA Member and subsequent vote for appointment of Marian Doxey to the vacancy created.

Motion by Councilmember Nicolow and supported by Councilmember Garrett to approve the removal of Sunshine Cadwell from the DDA and the subsequent appointment of Marian Doxey to fill the term.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Kissinger, Nicolow, VanNess, Yingling.

NAYS: Councilmembers Allen, Jackson.

d. Resolution adopted by the DDA at their March 2, 2009 Meeting approving the creation of a Tax Increment Finance District, establishing the boundaries of the District and requesting that the City set public hearings on the establishment of the District and Plan

REFERRED TO THE CITY ATTORNEY

3. Letter from Kathleen Kline submitting application for the rental of Community Park on May 21, 2009 from 10:00 A.M. to 3:00 P.M. for the Galesburg Public School Pre School Picnic and requesting waiver of the rental fee.

Motion by Councilmember Kissinger and supported by Councilmember Nicolow to approve the request for waiver of the rental fee for Community Park on May 21, 2009 for the Galesburg Public School District's Pre School Picnic.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

4. Letters from the State of Michigan Public Service Commission re:

a. Notice of a Hearing for the Customers of Consumers Energy Company Case #s U-15805 and U-15889 held on February 27, 2009 at 9:00 a.m.

b. Notice of a Hearing for the Customers of Consumers Energy Company Case #U-15744 to be held March 3, 2009 at 9:00 a.m.

c. Notice of a Hearing for the Customers of Consumers Energy Company Case #U-15704 held February 10, 2009

RECEIVED AND PLACED ON FILE

5. Letter from the City of Kalamazoo regarding their intent to bill the City of Galesburg for True Up Charges in the amount of \$23,940.00 at the rate of \$1,995.00 per month beginning January 2009.

RECEIVED AND PLACED ON FILE

6. Letter from Fleis & Vandenbrink Engineering, Inc. submitting the revised SWIPPI report for City of Galesburg.

RECEIVED AND PLACED ON FILE

## VI. PUBLIC HEARINGS

There were no scheduled public hearings.

## VII. ACTION ITEMS

### A. Resolutions for Action

1. Appointment of Darin McNeil to the Parks Board

### **RESOLUTION #030209-01 RESOLUTION OF APPOINTMENT RESOLVED BY THE CITY COUNCIL CITY OF GALESBURG, COUNTY OF KALAMAZOO, MICHIGAN**

At a regularly scheduled meeting of the Galesburg City Council held on Monday, March 2, 2009, at 7:00 P.M. with Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen Present, and None absent, the following resolution was offered by Councilmember Kissinger and, supported by Councilmember Nicolow;

**Whereas**, the City currently has received an application for appointment to the Parks Board from Darin McNeil a resident of the City of Galesburg; and

**Whereas**, the Parks Board currently has a vacancy for a City Resident on their Board; and

**Now therefore be it resolved**, that the Galesburg City Council hereby approves the appointment of Darin McNeil to the Parks Board for a Term to Expire January 1, 2012.

Motion by Councilmember Kissinger, and supported by Councilmember Jackson to place an affirmative roll call vote on the resolution of appointment.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen.

NAYS: None.

B. Ordinances for Passage

**CITY OF GALESBURG  
KALAMAZOO COUNTY, MICHIGAN  
ORDINANCE #254**

**AN ORDINANCE TO SET CURFEWS FOR MINORS; TO DEFINE DISORDERLY PERSONS AND PROHIBIT SUCH CONDUCT; TO PROHIBIT THE DISCHARGE OF FIREARMS WITHIN THE CITY; TO DEFINE AND REGULATE PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AUCTIONS AND RESIDENTIAL SALES; TO PROHIBIT STREET PARKING IN CERTAIN CIRCUMSTANCES; TO PROHIBIT PARKING IN FRONT YARDS OF RESIDENCES, EXCEPT IN DRIVEWAYS; TO MAKE VIOLATIONS OF THESE PROVISIONS CIVIL INFRACTIONS; AND TO REPEAL ALL OTHER ORDINANCES OR PARTS THEREIN INCONSISTENT OR CONTRARY TO THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE FOR THIS ORDINANCE.**

**THE GALESBURG CITY CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS:**

**ARTICLE I**

Chapter 46, Offenses and Miscellaneous Provisions, Article V, Curfew, Sections 46-46 through 46-49, are hereby added and shall now read:

**Article V. Curfew.**

**Sec. 46-46. Curfew for Minors Under Age 12.**

No minor under the age of 12 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

**Sec. 46-47. Curfew for Minors Under Age 16 AGED 16 AND UNDER.**

A minor ~~under the age of 16 years~~ AGED 16 YEARS OR UNDER shall not loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12:00 midnight and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or an adult delegated by the parent or guardian to accompany the minor, or where the minor is upon an errand or other legitimate business directed by the parent or guardian.

**Sec. 46-48. Penalty.**

Violation of Sections 46-46 and 46-47 shall be a civil infraction punishable as prescribed in this Code.

**Sec 46-49. Aiding Underage Children to Violate Curfew.**

Any person of the age of 16 years or over OF THE AGE OF 17 YEARS OR OVER assisting, aiding, abetting, allowing, permitting or encouraging any minor under the age of 16 MINOR OF THE AGE OF 16 OR UNDER to violate Section 46-46 or 46-47 of this Ordinance is guilty of a civil infraction.

**ARTICLE II**

Chapter 46, Offenses and Miscellaneous Provisions, Article VI, Disorderly Persons, Sections 46-50 through 46-52, are hereby added and shall now read:

**Article VI. Disorderly Persons.**

**Sec. 46-50. Definition.**

The term "public place", as used in this Chapter, shall mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public and any other place which is open to the public view or hearing, or to which the public has access.

**Sec. 46-51. "Disorderly Person" Defined.**

A person is a disorderly person if the person is any of the following:

1. A person of sufficient ability who refuses or neglects to support his or her family.
2. A common prostitute.
3. A window peeper.
4. A person who engages in an illegal occupation or business.
5. A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.

6. A person who is engaged in indecent or obscene conduct in a public place.
7. A vagrant.
8. A person found begging in a public place.
9. A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed.
10. A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted.
11. A person who loiters in or about a police station, police headquarters building or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances.
12. A person who is found jostling or roughly crowding people unnecessarily in a public place.
13. Any person who, individually or with others, shall stand, loiter, stroll or collect in a group or crowd for any unlawful purpose or to the interference of vehicles, pedestrians or persons in any place in the City, public or private, or who shall refuse to leave any such place upon the request of any person having supervision thereof.
14. Any person who, after first being warned by a law enforcement officer or who, where a sign or signs have been posted by the City or by the owner or person or persons having control of the premises prohibiting same, shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage thereon, or any person who blocks or obstructs or prevents free access to the entrance of any building open to the public.
15. Any person who shall, without any business or personal relationship with the owners, lessees, operators or persons having control over a private parking lot, mall or any private property used for parking in conjunction with a business or apartment, where a sign or signs have been posted forbidding same, loiter, stand, park, sit or lie thereon, therein or traverse said lot, mall or property.
16. Any person who shall willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon

being notified to depart therefrom by the owner or occupant, the agent or servant of either, who without lawful authority, neglects or refuses to depart therefrom.

#### **Sec. 46-52. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

### **ARTICLE III**

Chapter 46, Offenses and Miscellaneous Provisions, Article VII, Firearms, Sections 46-53 and 46-54, are hereby added and shall now read:

#### **Article VII. Firearms.**

##### **Sec. 46-53. Discharge of Firearms Unlawful.**

It shall be unlawful for any person or persons to shoot or discharge any pistol, revolver, shotgun rifle, pellet gun or other firearms or weapons within the limits of the City of Galesburg, except as herein provided.

The City Council may, upon application in writing, grant a permit to hunt predatory animals within the limits of the City of Galesburg. No permit shall be for more than 90 days duration.

##### **Sec. 46-54. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

### **ARTICLE IV**

Chapter 46, Offenses and Miscellaneous Provisions, Article VIII, Peddlers, Sections 46-55 through 46-62, are hereby added and shall now read:

#### **Article VIII. Peddlers.**

##### **Sec. 46-55. Peddler Defined.**

The word "peddler" as used in this Chapter shall include any person traveling by foot, wagon, automotive vehicle or other conveyance, from place-to-place, from house-to-house, or from street-to-street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place-to-place, shall sell or offer the same for sale from a wagon, automotive vehicle or other vehicle or conveyance. Any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this Chapter shall be deemed a peddler.

The word "peddler" shall include the words "hawker" and "huckster".

**Sec. 46-56. License Required.**

No person shall engage in the business of peddler without first obtaining a license therefore. No such license shall be granted except upon certification of the Chief of Police.

**Sec. 46-57. Fixed Stands Prohibited.**

No licensee shall stop or remain in any one place upon any street, alley or public place, longer than necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his vehicle parallel to and within 12 inches of the curb and shall depart from such place as soon as he has completed sales with customers actually present.

**Sec. 46-58. Prohibited Areas.**

No peddler, in the sale of goods, wares and merchandise, shall obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a sale nor remain, barter, sell, offer or expose for sale any goods, wares or merchandise in front of or at the side of any property against the wish or desire of the property owner or the tenant or occupant of such property. No peddler shall engage in peddling on any street, alley or public place after having been requested to desist by any police officer of the City because of congested or dangerous traffic conditions.

**Sec. 46-59. Practices Prohibited.**

No peddler shall shout or cry out his goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

**Sec. 46-60. Curb Service Prohibited.**

No person shall operate or maintain any stand, vehicle, store or place of business on or near to any highway in such a manner that the customers of or traders with such person occupy or congregate within the limits of any street, lane, highway, or public place within the City. No person shall be permitted to use the streets, alleys, lanes or public places of the City for the service of customers or for the transaction of business, or to use any stands, stores or other places of business in any manner that shall require the customer, when transacting said business, to stand within the limits of the streets, highways, alleys or public places of the City.

**Sec. 46-61. Exempt Persons.**

The following shall be exempt from the licensing requirements of this Chapter but shall be subject to the other provisions hereof:

1. Farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated.
2. Any person under 18 years of age, when engaged in peddling on foot in the neighborhood of his residence under the direct supervision of any school or recognized charitable or religious organization.

**Sec. 46-62. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

**ARTICLE V**

Chapter 46, Offenses and Miscellaneous Provisions, Article IX, Solicitors, Sections 46-63 through 46-68, are hereby added and shall now read:

**Article IX. Solicitors.**

**Sec. 46-63. Solicitors Defined.**

The word "solicitor" as used in this Chapter shall include any individual, whether a resident of the City or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place-to-place, from house-to-house or from street-to-street, taking or attempting to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, and such definition shall include any person who, for himself, or for another person, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery. The word "solicitor" shall include the word "canvasser".

**Sec. 46-64. License Required.**

No person shall engage in business of a solicitor within the City without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police.

**Sec. 46-65. License Application.**

The license application filed under the provisions of Chapter 71 of this Code shall furnish the following information:

1. Name and description of the applicant.
2. Permanent home address and full local address of the applicant.
3. A brief description of the nature of the business and the goods to be sold.
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
5. The length of time for which the right to do business is desired.
6. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
7. A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be 2" x 2" (two inches by two inches) showing the head and shoulders of the applicant in a clear and distinguishing manner.
8. The fingerprints of the applicant and the names of at least two (2) reliable property owners of the County of Kalamazoo, State of Michigan, who will certify as to the applicant's good character and business respectability, or in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal Ordinance, the nature of the offense and the punishment or penalty assessed therefore.

#### **Sec. 46-66. License Fees.**

The fees for a solicitor's license shall be as specified in Chapter 72 of this Code. No fee for a solicitor's license shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he may apply to the City Clerk for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and gross volume or estimated gross volume of business and such other information as the City Clerk may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Clerk shall then conduct an investigation, comparing

applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed for the solicitor's license is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and non-discriminatory, or if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the City Clerk shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed in Chapter 72 of this Code. Should the City Clerk determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of applicant's business in the City or at the end of each three month period, a sworn statement of the gross sales and pay the amount of fee therefore, provided that no additional fee during any one (1) license year shall be required after the licensee shall have paid an amount equal to the annual license fee as prescribed in Chapter 72 of this Code.

#### **Sec. 46-67. Exempt Persons.**

Persons under 18 years of age, when engaged in soliciting on foot in the neighborhood of their residence under the direct supervision of any school or recognized charitable or religious organization shall be exempt from the requirements of this Chapter.

#### **Sec. 46-68. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

### **ARTICLE VI**

Chapter 46, Offenses and Miscellaneous Provisions, Article X, Transient Merchants, Sections 46-69 through 46-74, are hereby added and shall now read:

#### **Article X. Transient Merchants.**

##### **Sec. 46-69. License Required.**

No person shall engage in a temporary business of selling goods, wares or merchandise at retail within the City from any lot, premises, building, room or structure, including railroad cars, without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police and the City Treasurer.

##### **Sec. 46-70. Temporary Business Defined.**

Every person engaged in the retail sale and delivery of goods, wares or merchandise, shall be deemed to be engaged in carrying on a temporary business unless his

goods, wares or merchandise shall have been assessed for taxation in the City during the current year.

#### **Sec. 46-71. Indebtedness to the City.**

No license shall be granted to any person owing any personal property taxes or other indebtedness to the City, or who contemplates using any personal property on which personal property taxes are owing, in the operation of such business.

#### **Sec. 46-72. Benefit Sales.**

Any person selling or offering for sale any goods, wares or merchandise on behalf of and solely for the benefit of any recognized charitable or religious purpose shall, after meeting all other requirements, be granted a license without payment of the fee required by Chapter 72 of this Code.

#### **Sec. 46-73. Exemption.**

Persons conducting a business licensed under another provision of this Code shall be exempt from the requirements of this Chapter.

#### **Sec. 46-74. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

### **ARTICLE VII**

Chapter 46, Offenses and Miscellaneous Provisions, Article XI, Auctions, Sections 46-75 through 46-87, are hereby added and shall now read:

#### **Article XI. Auctions.**

##### **Sec. 46-75. "Auction Sale" Defined.**

"Auction Sale" as used in this Chapter shall mean the offering for sale or selling of personal property to the highest bidder or offering for sale at a high price and then offering the same at successive lower prices until a buyer is secured.

##### **Sec. 46-76. Auction License Required.**

Except as otherwise provided in this Chapter, it shall be unlawful for any person to sell, dispose of or offer for sale at public auction within the City any personal property whatsoever, unless and until such person and the person acting or intending to act as auctioneer, shall have first obtained a license from the City Clerk in accordance with the provisions of Chapter 71, regulations and requirements of this Chapter.

##### **Sec. 46-77. Application.**

Any person desiring to conduct an auction, at least 10 days prior to any single proposed auction sale, or at least 10 days prior to the opening and commencement of any auction business on a continuing basis, shall file with the City Clerk an application in writing duly verified by the applicant, which application shall state the following facts:

1. The name, residence and post office address of the person making the application, and if a firm or corporation, the name and post office address of the members of the firm or officers of the corporation, as the case may be.
2. The address at which the auction sale or sales will be conducted.
3. The name, residence and post office address of the auctioneer who will conduct such sale or sales.
4. A detailed inventory of all new merchandise to be offered for sale and a valuation thereof.
5. A detailed inventory of all other personal property to be offered for sale and a valuation thereof.
6. If it is proposed to conduct auction sales on any other basis than a single sale of property on hand at the time of application, then in such event the applicant shall submit a statement covering the kind and nature of property to be offered for sale and a fair estimate of the average value of property to remain on hand for sale from day-to-day.
7. If the license applied for covers only the sale of property then on hand, the statement shall disclose whether the sale will be with or without reservation.
8. All information required under Chapter 71 of this Code.

##### **Sec. 46-78. Continuing Auctions.**

Where the license applied for covers a continuing business, the sale shall be conducted without reservation.

##### **Sec. 46-79. License Fees.**

The fees for licenses issued under the provisions of this Chapter shall be as prescribed in Chapter 72 of this Code.

##### **Sec. 46-80. Reports.**

Within 10 days after completing any auction or sales extending for a period of not more than six (6) days, the



applicant shall file in duplicate with the City Clerk a listing of all property sold at such sale and the prices received on each separate bid and sale, together with a detailed inventory of all property unsold at the end of such auction. In all other cases, such listing of sales shall be filed on or before the 10<sup>th</sup> day of each month to cover all such business for the preceding calendar month.

#### **Sec. 46-81. Fraudulent Practices.**

At any sale by auction, no person shall act as a "bidder" commonly known as a "capper", "booster" or "shiller" or offer or make any false bid or falsely offer or pretend to buy any article sold or offered for sale by auction.

#### **Sec. 46-82. Renewals.**

All applications for renewals shall clearly state any changes regarding information contained in the original application, any new conditions that may affect the issuance of a license and any other information the City Clerk may request.

#### **Sec. 46-83. False Representations.**

It shall be unlawful for any person to sell or attempt to sell by auction, or to advertise for sale any personal property by falsely representing the whole or a part thereof to be bankrupt or insolvent stock, or damaged goods, or goods saved from fire or to make any false statements as to the previous history or character of such property.

#### **Sec. 46-84. Street Sales.**

It shall be unlawful for any person to conduct auction sales on any street, sidewalk or other public place.

#### **Sec. 46-85. Hours.**

It shall be unlawful to conduct any auction sale except on weekdays between the hours of 8:00 a.m. and 10:30 p.m.

#### **Sec. 46-86. Exempt Sales.**

The provisions of this Chapter shall not extend to or apply to the following sales:

1. To sales under mortgage foreclosure; or sales under direction of a court or court officers.
2. Sales by or on behalf or under authority of the City, the United States, the State of Michigan or any political subdivision, branch, board, agency or commission of such governmental bodies.
3. Sales made in pursuance of judgment, decree, order or authority of any court or seizure of any officer.

4. Sales by receivers appointed by law or by a general assignment for the benefit of creditors.

#### **Sec. 46-87. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

### **ARTICLE VIII**

Chapter 46, Offenses and Miscellaneous Provisions, Article XII, Residential Sales, Sections 46-88 through 46-97, are hereby added and shall now read:

#### **Article XII. Residential Sales.**

##### **Sec. 46-88. Citation.**

This Chapter shall be known and may be cited as the "Residential Sales Ordinance".

##### **Sec. 46-89. Definitions.**

For the purpose of this Chapter, "residential sales" shall include barn sales, garage sales, yard sales, basement sales, porch sales, patio sales and any other sales where tangible personal property of a resident of the premises including clothing, utensils, appliances, equipment and all other tangible personal property commonly used in and about the residence for the personal use of a resident, is sold by that resident.

##### **Sec. 46-90. Duration.**

No residential sale shall extend for more than 72 hours.

##### **Sec. 46-91. Limit on Number.**

No person shall have more than two (2) sales in any one (1) year.

##### **Sec. 46-92. Permit Required.**

Every person intending to have a residential sale shall obtain a permit therefor from the City Clerk.

##### **Sec. 46-93. Permit Application.**

The City Clerk will furnish forms for application for permits, and said permits shall be returned to the City Clerk at the close of the sale.

##### **Sec. 46-94. Arrangement of Merchandise.**

All tangible personal property proposed to be sold shall be arranged in an orderly manner on the premises; and shall not be placed in such a way as to be a nuisance to adjoining property, and shall in no way be arranged so



as to obstruct the vision of persons using driveways or entering and exiting within the neighborhood.

#### **Sec. 46-95. Signs.**

Signs advertising such sales shall not exceed 17" x 22" (seventeen inches by twenty-two inches) (a standard size sign) and shall not be placed on any public property, on any curbed lawn or at any public parking area, and shall be removed with 24 hours after the sale.

#### **Sec. 46-96. Penalty/Remedies**

Any person convicted of being a disorderly person shall be guilty of a civil infraction punishable as prescribed in this Code. In addition thereto, any violation of this Chapter is hereby determined to be a nuisance per se, and the City may forthwith obtain an order from a court of competent jurisdiction ordering the abatement of such nuisance, and if the danger to the health, safety and/or welfare of the public or persons at or near the property is imminent, the Building Official of the City of Galesburg may forthwith enter upon the premises and abate the nuisance.

#### **Sec. 46-97. Permits Restricted to Individuals.**

Residential sales shall be permitted only by individuals and no firms, corporations or other associates shall be permitted to have a residential sale without the prior written consent obtained from the City Council of the City of Galesburg. The City of Galesburg in granting such consent shall determine whether the proposed sale, because of its magnitude or nature would be dangerous to the health, safety and/or welfare of the public or the persons living near the premises, or passing by the premises or using the premises or nearby premises.

### **ARTICLE IX**

Chapter 70, Traffic and Vehicles, Article III, Parking Violations Bureau, Sections 70-45 through 70-50, are hereby reserved.

### **ARTICLE X**

Chapter 70, Traffic and Vehicles, Article IV, No Parking in Front Yard, Sections 70-51 through 70-54, are hereby added and shall now read:

#### **Sec. 70-51. Hours When Parking on Streets is Prohibited; Posting.**

1. It shall be unlawful for any person to park or allow to leave standing upon a public street of the City any motor vehicle between the hours of 2- 3:00 a.m. and 6:00 a.m. FROM OCTOBER 15<sup>TH</sup> OF ANY GIVEN YEAR THRU APRIL 15<sup>TH</sup> OF THE FOLLOWING YEAR.
2. Notices of this restriction on public street parking shall be posted within the City.

#### **Sec. 70-52. Parking on Street for Certain Purposes Prohibited.**

A person shall not park a vehicle on any street for any of the following reasons:

1. Displaying the vehicle for sale.
2. Repairing or maintaining the vehicle, except those repairs necessary to remove the vehicle from the street.
3. Advertising.
4. Selling merchandise from a vehicle.

#### **Sec. 70-53. Parking in Front Yard of Residence Prohibited Unless Excepted.**

A person shall not park a vehicle in the front yard of a residence unless the vehicle is parked on a recognizably improved driveway or parking pad connected to a driveway or an unimproved driveway which is visibly recognizable as a driveway. No vehicle may park on the front lawn of any residence.

#### **Sec. 70-54. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

### **ARTICLE XI**

All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

### **ARTICLE XII**

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

### **ARTICLE XIII**

This Ordinance shall take force and effect on March 17, 2009.

Motion by Councilmember Kissinger, and supported by Councilmember Yingling to move to the passage of ordinances, and that the ordinance when read in summary by the City Clerk be considered as being read in it's entirety.

Motion approved unanimously

Motion by Councilmember Kissinger, and supported by Councilmember Yingling that the Ordinance as read be amended in Section 46.47 to state MINORS AGED 16 OR UNDER; and in section 46.49 to describe a person of the age of 17 YEARS OR OLDER; and in section 70-51 to describe the period during which on street parking is prohibited as between the hours of "3:00 a.m. and 6:00 a.m. FROM OCTOBER 15<sup>TH</sup> OF ANY GIVEN YEAR THRU APRIL 15<sup>TH</sup> OF THE FOLLOWING YEAR" be now passed with amendments.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

\*\*\*\*\*

### **CERTIFICATE**

I, Debbie Miner, City of Galesburg Clerk, do hereby certify that the foregoing City of Galesburg Ordinance Number 254 was adopted by the City Council at a regular meeting held on March 2, 2009, and that the following is a record of the vote of the members of said City Council on said Ordinance:

AYES: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen.

NAYS: None

ABSENT: None

ABSTAIN: None

Debbie Miner, CMC  
Galesburg City Clerk

### **VIII. REPORTS OF OFFICERS & BOARDS**

#### **a. Accounts payable**

Motion by Councilmember Kissinger, and supported by Councilmember Jackson to approve payment of the bills in the amount of \$9,395.58.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

#### **b. Department of Public Works:**

There was no report from the DPW.

### **c. Police Department**

Chief Mau reported that the E-Ticket numbers reflect the old procedure for citations because the computer in the second police car is currently out of commission. It is in the shop for repair and tickets are being hand written.

With the weather changing, they will begin ticketing vehicles in yards now.

Councilmember Garrett asked if they do anything for recovery from the County for drunk driving and other tickets that are reimbursable from Kalamazoo County.

Chief Mau said they have not been aggressive about pursuing reimbursement from the County, but they will begin doing so.

### **d. Minutes of City Boards & Commissions:**

- Galesburg Memorial Library; Minutes of January 27 Regular Meeting and January 5, Special Meeting
- Galesburg Historical Museum
- Galesburg DDA; Minutes of January 29, 2009

### **IX. NEW BUSINESS**

#### **A. Budget Update**

City Clerk Miner reviewed the budget report with Councilmembers and pointed out that only certain department budgets contain appropriations for discretionary spending: such as the Treasurer's appropriation for the Michigan Tax Tribunal which totals \$10,000 in this years budget; the Library's appropriation for supplies, office supplies, capital outlay equipment, books magazines and periodicals which total \$16,229.00 in this year's budget; or the Police Department appropriations for supplies, capital outlay equipment, and miscellaneous which totals \$7,249.00 in this year's budget. The Treasurer's MTT appropriation is budgeted every year in anticipation of property tax appeals being granted by the County or the State which create a liability for the City. It is not a fixed expense that we can project a definite dollar amount for, but a potential expense that we must plan to have money available for in case we are required to reimburse the County or the State. Budgetary overruns are typical when expenses exceed appropriations because of unforeseen circumstances. For instance, our unemployment insurance went up again because one of our Police Officers was reduced from full time to part time in December 2007 and filed for unemployment to make up the difference in pay. He collected unemployment from December 2007 through August 2008 which increased the annual Michigan Unemployment Insurance expense for the City. The extreme winter weather we experienced has caused overruns in snow plowing expenses; The increases in gas prices caused overruns

in waste hauling expenses because the waste hauler is adding a fuel surcharge to our accounts; the extreme weather along with increased costs for heat and electricity for City buildings has caused overruns in utility appropriations; the failure of the computer that works as the file server for all City programs created an unexpected expense when it had to be replaced; these types of overruns occur from time to time and have occurred this year. For the most part they can be absorbed by the budget, although some transfer of funds may have to be made. Overall, the budget is right where it always is at this time of year. We do not have extra money, and things will be tight through the remainder of the fiscal year, as per usual.

Councilmember Nicolow asked about the Police Department Employee who was reduced from full time to part time last year, and about the expense this incurred in our unemployment insurance program, he remarked that even asking an employee to take a cut in pay can result in unemployment liabilities.

Councilmember Jackson said that the City is going to need to let up on the sidewalk plowing this coming year. It is too expensive to continue.

## **X. OLD BUSINESS**

### **A. Galesburg Charleston Joint Fire Authority Proposed Budget for FY 2009/2010.**

Discussion was held on the budget request by the Fire Department. This request represents an \$8,700.00 increase for the City. The Fire Board states that it is only requesting \$65,525 from each community, however it arrived at that figure by eliminating the amount of the Police and Fire Training Tower appropriation, which the City will still have to pay for the fire department anyway. In total what the department is requesting represents a cost of \$66,775.00 for the City of Galesburg as compared to last year's appropriation of \$58,075.00. The City, as noted by the Clerk during the budget review, has only certain departmental appropriations that can be adjusted to attain these additional funds for the Fire Department.

Councilmember Garrett stated, for the purposes of disclosure, that her son Chad is an employee of the Galesburg Charleston Joint Fire Authority. She said that if that fact makes people feel that she should not be voting on the Fire Department Budget they should speak up now. She does not feel that this creates a conflict of interest for her and believes that she can be allowed to vote on this issue.

City Clerk Miner said that the appropriations noted under budget review in new business will serve as the only available sources to which Councilmembers can go to access additional funds for the Fire Department Budget for next year. There is just no other place to go to find available monies within the City's budgets. She asked

that this budget request be held to allow for discussions with the departments whose budgets will be affected by increased appropriations to the fire department. She asked Fire Chief Henson if the fire department would be harmed by holding this budget request until funding could be identified.

Fire Chief Henson said that the reason this request comes in so early is because Charleston has to have their budget approved earlier than the City. He further stated that he does not want the Fire Department to be the bad guy who's taking money away from other departments. They appropriated money for new fallout gear last year, but the cost of fuel was so high they had to forego the purchase of new equipment so that they could put gas in the fire trucks. He reviewed the Fire Department request line by line. He explained that there is a wage increase included in this budget, but they have not had an increase for several years.

Rob Wilson, DPW Supervisor said that other departments are not going to willingly give their money over to the Fire Department. Department Heads are going to request all the money they think they can get for their operations, and it is up to the City Council to make the decision as to who gets their appropriation reduced, not leave it up to Department Heads to act in a cooperative manner to benefit the City.

Councilmember VanNess stated that we need to find this money that the Fire Department is requesting.

Councilmember Yingling asked what it is that Councilmembers can do to find the money, they need information on how to make the right kinds of cuts to other departments to give the needed money to the Fire Department.

Councilmember Kissinger praised the Fire Department and its members and said we need to do whatever we have to do to find the money for them. They deserve this modest increase in salaries.

Councilmember Garrett said that she would hate to see an emergency needs victim not be able to get the service they need immediately when they need it.

Motion by Councilmember Garrett, and supported by Councilmember Nicolow to approve the request from the Galesburg Charleston Joint Fire Authority for approval of their budget request in the amount of \$65,525.00.

Motion approved by the following vote:

YEAS: Councilmembers Garrett, Jackson, Kissinger, Nicolow, VanNess, Yingling, Allen

NAYS: None

## **XI. COUNCIL COMMENT**

Councilmember Kissinger asked why the City Council meetings for the second Monday in January (which is Martin Luther King, Jr. Day) and February (which is Presidents Day) are held on Tuesday, rather than on Monday. City Hall is open on that Monday and he feels the meetings should be held on Monday, last meeting night. He and Councilmember Garrett stood outside waiting for the meeting to start, only to find out that the meeting was scheduled for Tuesday night instead.

Clerk Miner noted that the Agendas that were mailed out had the Tuesday date on them.

Wifton Graham asked Attorney Soltis about the resolution approved earlier tonight in the DDA Meeting. He is worried that the Tax Increment Finance Plan was not part of that resolution.

## **XII. ADJOURNMENT**

Motion by Councilmember Kissinger and supported by Councilmember Jackson to adjourn.

Motion carried unanimously.

**Meeting adjourned at 8:45 P.M.**

Respectfully submitted,

Debbie Miner, CMC  
City Clerk, CFO