

City of Northville
CITY COUNCIL REGULAR MEETING MINUTES
October 5, 2015

Mayor Johnson called the meeting to order with the Pledge of Allegiance at 7:30 p.m. in the City of Northville Municipal Building, City Council Chambers, 215 W. Main Street, Northville, Michigan, 48167.

ROLL CALL

Present: Mayor Christopher Johnson, Mayor Pro Tem James Allen, Councilmembers Nancy Darga, Ryan McKindles, and Sam Ekong

Absent: None

Also Present: City Manager Patrick Sullivan, City Clerk Dianne Massa, Public Works Director James Gallogly, Parks and Recreation Director Jason Spiller, Police Chief Michael Carlson, representatives from Poole's Tavern, representatives from Center Street Grill, and approximately 20 citizens.

PRESENTATIONS

A. Citizens Comments

Matt Flynn, producer of Rib Fest, thanked the City for their assistance with this event. Flynn noted that improvements are needed and hopes to have another event in 2016.

APPROVAL OF AGENDA AND CONSENT AGENDA

Motion Allen, seconded by Ekong to adopt the agenda and consent agenda as presented:

Approve City Council Minutes of:

- Regular Meeting of September 21, 2015

Receive Bills List:

- Checks #95447 to #95612

- EFT #500215

Receive Board and Commission Minutes: None

Receive Departmental Reports: None

Board and Commission Appointments: None

Request to Dispose of Assets / Weight Lift Equipment / Parks and Recreation

Motion carried unanimously.

NEW BUSINESS

A. Request to Transfer Class C Liquor License with Outdoor Service / 135 N. Center LLC

135 N. Center, LLC, d/b/a Center Street Grill, a partnership owned by JDL Holdings (Joseph Comiskey, Daniel Johnson, and Landon Garrett), John Corsi and Phillip Zakaria, requested transfer of ownership of an escrowed Class C and SDM Liquor License, owned by The Starting Gate Saloon, Inc. The escrowed license has a Sunday Sales permit, as well as a dance permit. Center Street Grill is dropping the dance permit and intends to add AM Sunday Sales and an Outdoor Service permit to the license. The business is to be located at 135 N. Center Street, which is currently being renovated to accommodate this business.

The applicants submitted the Liquor License Review Committee Application indicating they intend to operate an American Contemporary sit-down restaurant with table bar service. The business will have an interior seating capacity of 98 persons, including 10 seats at the bar, as well as additional seating outdoors. The ratio of food to alcohol sales is anticipated to be 60% food and 40% alcoholic beverages. The Plan of Operation indicates that the business will be open 11:00am – 11:00pm Monday through Thursday; and 11:00am – 12:00am Friday, Saturday, Sunday, and holidays; however, if there is a major televised sporting event, they would remain open later, but under no circumstances later than 2am. Patrons of the restaurant will park in public parking. Notice of this public hearing has been provided in accordance to the City's Liquor Management Ordinance.

The applicants have successfully operated similar liquor license establishments for several years in other communities. Currently, the applicants own and operate the following liquor licensed establishments:

- Mr. Zakaria - owns and operates the Library Sports Pub in West Bloomfield. (9 Years).
- Mr. Corsi - owns and operates Cellar 849 (6 years) and Barrio Concina Y Tequileria (1+ year) in Plymouth.
- Mr. Comiskey, Mr. Garrett, and Mr. Johnson - co-own Ironwood Grill in Plymouth. They are also partnered with two other stockholders owning 336 Main in Plymouth.(6 years)

Staff has conducted a background check on the applicants and their businesses and has found the following MLCC violations:

- The Ironwood Grill
 1. Failing to provide proof of alcohol training
 2. Warning for entertainment without an entertainment permit
- 336 Piano Bar
 1. Sold to intoxicated persons, allowed intoxicated persons to consume on premises, and allowed intoxicated person to loiter on premises
 2. Failing to provide proof of alcohol training

Although the background check revealed the above violations, the applicants currently operate four establishments with 20+ years combined experience as restaurateurs. It was noted that all fees and costs have been paid by the applicants.

City Council Comments, Questions and Discussion: Discussion pertained to the hours of operation and the violation of over-service. A comment from Council clarified that the violation of failing to provide proof of alcohol training was a clerical error on the part of the company hired to provide training as they did not submit the training certifications to the MLCC. In fact, the training was conducted and completed.

Motion McKindles, seconded by Darga to approve the resolution to transfer a Class C and SDM License with AM/PM Sunday sales and outdoor service permit for 135 N. Center, LLC, d/b/a Center Street Grill. **Motion carried unanimously.**

B. Poole's Lease for Outdoor Dining

In 2012, Poole's approached the City with a request to purchase part of, or all of the City-owned property on the northwest corner of E. Main and Hutton Streets. At that time, Poole's indicated that they would be interested in expanding their building and improving their outdoor seating area. A Committee, comprised of Mayor Johnson, Councilmember McKindles, Downtown Development Authority members Shawn Riley and Carolann Ayers, was appointed to study the matter and make a recommendation to City Council.

The Committee reviewed several drawings and concepts for development on the property. The Committee was not comfortable recommending a sale of the property as Poole's could not financially commit to actually adding on to the building in a reasonable period of time. They could only commit to improving the outdoor seating area and the exterior of the building. Conversations have continued since then between Poole's and Administration regarding a long-term lease that would give Poole's the security needed to proceed with the improvements. Over the last year, a lease document was drafted and various provisions were negotiated to the satisfaction of Poole's (RMJ2 Properties of Northville, LLC) and the Committee.

The lease document was provided to City Council for consideration. The area to be leased runs 58.5 feet along the east edge of the existing building, and 26 feet wide along the sidewalk. The lease would run for a term of 25 years. The lease agreement would transfer with a sale of the building. The City could cancel the lease with 12 months' notice. Annual rent would be \$1.85 per square foot, which is the same as other permanent outdoor seating areas. The rate would be adjusted annually by the State C.P.I. (consumer's price index). Poole's will also be responsible for payment of property taxes for this land.

The lease also addresses hours of operation, alcoholic beverage and food service, and maintenance responsibilities on the leased area. Poole's will be responsible for the costs of all new improvements to the area and must seek all necessary approvals prior to construction. A concept drawing of the improvements was also provided to City Council for its review and consideration. It was also noted that an amortization schedule for improvements will be provided to City Council for its review and approval. This will be done before improvements begin.

It was also explained that in the 1980s the building was expanded and sits on a small portion of City-owned property. A property trade was discussed, but no documentation was located to indicate the trade was officially completed. It was noted that if certain improvements are made, Administration and the Committee will make a recommendation to City Council that the trade be formally done and recorded. This trade would be done as a separate transaction/agreement deed.

City Council Comments, Questions, and Discussion: City Council questioned if the circular park area at the corner of E. Main and Hutton would still be used by Poole's. Poole's representatives responded that this area will not be used for outdoor seating, but is planned to be used for a "waiting" area for patrons waiting for an available outdoor table. Poole's will apply annually, through the Sidewalk Café ordinance and application process, for use of this area.

In response to another question from City Council, Poole's representatives explained that the proposed improvements to the Poole's building for outdoor seating, weather permitting, will be a three-season room. There are no plans for a four-season room. In addition, improvements to the area behind the building will be made and those improvements will be ADA compliant.

Jerry Mittman, 997 Springfield Court, questioned if it would be prudent for City Council to direct the Planning Commission to review the Zoning Ordinance as it pertains to parking and parking credits in the Central Business District. This outdoor expanded area for Poole's will increase parking use in the downtown, yet the property owner is not required to provide for any additional parking or pay into the parking fund for parking improvements. A year-round business would be required to pay for parking; a nine-month operation should be looked at. He also voiced concern with the low square footage amount, questioning if that amount was consistent with the square footage fee charged by other communities with permanent outdoor seating.

Carolann Ayers, DDA Member, noted that the Parking Committee continues to review downtown parking issues and, if appropriate, will make a recommendation to City Council.

Dave Carson, resident, voiced concern with the low square footage amount, stating the total annual amount equates to \$69/month. This seems very low.

City Council noted that the DDA reviews outdoor seating square footage amounts annually. The DDA wants to encourage people to come to the downtown and outdoor dining is considered an economic benefit to the community. In addition, Poole's will also be paying taxes for use of that property. Comments voiced excitement to see a business invest in the downtown to continue to make it alive and vibrant, versus leaving Northville and opening in another community. It was also noted that the City continues to monitor parking lots and conduct parking counts during peak hours. Most parking lots continue to show a surplus of available parking.

Poole's noted that their parking needs really have not changed. Most people want to sit outside, and their indoor dining room is usually empty.

Motion Darga, seconded by McKindles to approve the Rental Agreement between the City of Northville and RMJ2 Properties of Northville, LLC, and authorize the City Manager to sign the agreement on behalf of the City. **Motion carried unanimously.**

C. Contract Award for Concrete Stair Replacement at Community Center

The Northville Community Center is in need of replacement steps at the rear entrance of the facility. Sealant has been used over the past few years to delay the replacement; however, the sealant is no longer effective, requiring full replacement. These steps and the entrance ramp provide the only access into the Center's main area from the rear parking lot.

The Department of Parks and Recreation solicited bids through the MITN (Michigan Intergovernmental Trade Network). On September 23, 2015, three bids were received as follows:

Hittle Construction Company	\$ 9,590
McCarthy Construction Company	\$ 9,830
RAM Construction Services of Michigan, Inc.	\$13,000

The Department reviewed the bids and contacted references for performance verification. The contract has been reviewed by the City Attorney and MMRMA. The replacement of the Northville Community Center Rear Steps is included in the FY2016 budget.

Motion McKindles, seconded by Darga to accept the bid and authorize the Parks and Recreation Director to enter into a contract with Hittle Construction Co. of White Lake, Michigan for \$9,590 for the replacement of the rear concrete steps at the Northville Community Center. **Motion carried unanimously.**

D. Slope Modifications / Middle Rouge River

In 2014, the City of Northville undertook repairs to the Yerkes Pond Dam, more commonly referred to as the Mill Pond Dam. This project was successfully completed in Fall 2014.

In Spring 2015, following the snow melt and a few large rain events, it was brought to the City's attention that the existing rip-rap (multi-sized boulders and rocks placed along the river bank just downstream of the dam) was shifting. This shifting of rocks most likely resulted from the washing out of sand and soil from behind the rocks causing them to move and drop. This continues to occur typically on the north side of the river along the edge of the spillway within the limits of the Dam project due to the curve in the river just downstream of the Dam.

Adjacent to this portion of the Middle Rouge River, the abutting property owners on the north side of the river, Mr. and Mrs. Robert Taylor, have recently completed the construction of their new home along with the landscaping of their surrounding yard. Adjacent to the river, the Taylors used large cut building stone to create a retaining wall near the edge of the river channel. With the shifting of the rip-rap in front of this wall there is a concern that as the soil and sand under the rip-rap washes away, it may soon erode under the retaining wall causing the wall to drop and possibly collapse into the river.

Rowe Professional Services, the City's Engineer for the Dam project, responded to the concerns raised, and investigated the problem. Rowe determined that the Taylors constructed their wall with a geotextile fabric under it (to contain the fine soils from moving). Their fabric extended to the end of their property. When the new spillway rip-rap for the City's Dam was placed, it also had a geotextile fabric under it. However, it was found that the fabrics of each individual project were not connected allowing the water to wash out the fines, causing the rocks to drop.

The solution, as proposed by the City's Engineers, is to pull the rip-rap in the problem area away from the river bank, place new fabric overlapping the existing fabric and then replace the rip-rap back on to the shore of the river bank. This has been explained to the Taylors who are agreeable to the solution as well as to equally sharing the cost of this work with the City.

The City's contractor that completed the Dam improvements provided a quote to do this work that was significantly more than what the Taylor's landscaping contractor provided. The Taylor's contractor,

Global Garden, Inc., provided a price quote of \$19,030. The Taylors are agreeable to authorize their contractor to do this work, if the City will equally share the cost of this solution. As this repair is along the property line between the City and the Taylors, this seems to be a practical way to proceed.

The funding for the Yerkes Dam Repair Project came from the City's Public Improvement Fund. It is proposed that the City's share of the cost of this solution (\$9,515) come from this fund utilizing FY2015 breakage funds.

City Council Comments, Questions and Discussion: Discussion ensued pertaining to the proposed solution to address the shifting of the rip-rap, soil erosion permits, the authorizing agent for permits, and if there is a defined process for notifying homeowners that the live in/near a floodplain and the county or state permits that might be required. It was noted that the Taylors did their landscaping, to their property limits, under their City of Northville Building permit. The proximity of their property to the water likely should have required a soil erosion permit be issued by the County.

A representative from Rowe Professional Services was present to answer questions. Further explanation of the proposed solution for the north bank was provided, including the proposed natural stone mix, soil erosion, the need to test to ensure its stability, and concerns with the solution not including any natural plantings was discussed. Rowe has volunteered to perform field inspections to insure it is stable, at no additional cost. Rowe explained what would be done to reduce the velocity of the discharge into the spillway. In response to a concern that the concept design indicates that the fabric will not tow under the base boulders, Rowe explained that the base boulders have been there for years, are established, and are set deep into the soil. Disturbing those boulders might create additional erosion issues.

It was also noted that the Taylors have offered to pay for any additional costs or overruns. The City has verbal permission from the MDEQ to perform this modification under the City's existing permit (permit is valid until June 2016). In addition, the City has requested to be named as an additional insured on all contractor insurance. The State's Dam Engineer has inspected the Dam improvements, is aware of the issue with the slope, and is agreeable to the solution proposed.

Motion Darga, seconded by Allen to authorize Staff to secure approval from MDEQ to utilize the City's permit to restore the Dam and to verify adequate insurance from all contractors working within the State-dedicated flood plain and to reimburse Mr. and Mrs. Robert Taylor the costs of the slope stabilization costs not to exceed \$10,000. Further, these funds are to be committed from the unallocated FY2015 breakage funds. **Motion carried unanimously.**

E. Change Order to Professional Services / 2015 Street Improvement Project

On April 6, 2015, City Council awarded a professional services contract to Zeimet Wozniak & Associates for the 2015 Street Improvement Project. Zeimet Wozniak was one of eight consultants considered for the project.

During the design phase of this project, it was determined that an existing water main under a portion of Rayson Street, one of the streets being improved in the 2015 Street Improvement Project, was failing and should be replaced before the street was improved. Though this work is deemed necessary, the work was not included in the original scope of work for the project. Therefore, additional compensation is needed for the Engineer who performed the design and who had obtained an MDEQ permit for the water main replacement. In addition, extra effort will be necessary to inspect, test, and manage the construction of the water main replacement.

In addition to adding water main replacement work to the project, the bids for the road work came in over budget. Therefore, Staff requested that the Engineer modify the design to reduce some cost and rebid the project in hopes of getting lower prices. The second bid opening resulted in some lower prices, but because of a bid irregularity, it was decided to rebid this project one more time in the spring of 2016.

It was proposed that a Change Order be approved by City Council to cover the extra cost being requested by the project engineer. The additional amount requested was outlined as follows:

Extra design work necessary to add water main replacement work to the project	\$1,140
Extra work necessary to modify the roadway design and rebid the project	\$1,100
Extra work necessary for water main inspection, testing and construction coordination	<u>\$5,000</u>
Total Change Order Amount	\$7,240

This contract change order amount added to the engineer's original contract amount (\$24,650) brings the new contract amount to \$31,890. This new amount is still below the fees considered by the seven other firms who submitted proposals for this project last April and it is less than 8% of the expected construction cost of \$437,000.

City Council, Comments, Questions and Discussion: In response to questions from City Council, Staff provided further explanation of the work already performed by Zeimet Wozniak for the redesign and rebid of the 2015 Street Improvement project, as well as the scope of work that will be done for the water main portion of the project as follows:

Additional design work for adding water main replacement to the project:	\$1,140
Additional work to redesign and rebid the project to obtain lower bids:	\$1,100
Additional inspection time, testing, and coordination of water main construction	<u>\$5,000</u>
Total for Change Order #1	\$7,240

Original Contract Amount:	\$24,650
Change Order #1	<u>\$ 7,240</u>
New Contract Amount	\$31,890

Staff acknowledged that some of this work has already been completed (design for additional of water main to project and rebid of project to obtain lower costs).

Motion Darga, seconded by Ekong to approve a change order with Zeimet Wozniak & Associates in the amount of \$7,240 for additional professional services on the 2015 Street Improvement Project. Further, the Public Works Director is authorized to sign this change order on behalf of the City of Northville.

Motion carried unanimously.

MAYOR AND COUNCIL COMMUNICATIONS

A. Mayor and Council Communications None

B. Staff Communications None

Being no further business, the meeting was adjourned.

Adjournment: 8:22 p.m.

Respectfully submitted,

Dianne Massa, CMC
City Clerk

Christopher J. Johnson
Mayor

Approved as submitted: 11/2/15