

City of Northville
CITY COUNCIL REGULAR MEETING MINUTES
October 1, 2018

Mayor Roth called the meeting to order with the Pledge of Allegiance at 7:00 p.m. in the City of Northville Municipal Building, City Council Chambers, 215 W. Main Street, Northville, Michigan, 48167.

ROLL CALL

Present: Mayor Ken Roth, Councilmembers Nancy Darga, Sam Ekong, Patrick Giesa, and Marilyn Price

Absent: None

Also

Present: City Manager Patrick Sullivan, City Clerk Dianne Massa, City Attorney Robert Marzano, Historic District Commissioners Chuck Murdock and Tom Gudritz, Northville Public Schools Superintendent Mary Kay Gallagher, Northville Public Schools Board Members Roland Hwang and James Mazurek, and 31 citizens

Mayor Roth read a statement informing those present that the City Council meeting was being recorded for rebroadcast on the City's website. By remaining at the meeting, consent is inferred by those present to have their voice and image recorded and posted on the City's website.

PRESENTATIONS

A. Citizens Comments

Tim Luikart, 521 W. Cady Street, submitted a written statement dated September 30, 2018. Key points noted his recent meeting with the City Manager in which he expressed concerns with strategic issues the City is facing regarding the Historic District. Luikart spoke of Historic District Commission (HDC) decisions to permit additions and demolitions that reduced the percentage of contributing historic structures, undermining the integrity of the Historic District, leaving their house as one contributing structure surrounded by non-contributing structures; alleged a lack of transparency in how City Council selects HDC members; and the need for mandatory HDC training and the City's plan to accomplish this. Luikart requested his house be removed from the Historic District, transparency in Commissioner selection, removal of HDC members with known or potential conflicts of interest, and HDC training. He requested a meeting with the Mayor.

APPROVAL OF AGENDA AND CONSENT AGENDA

Motion Darga, seconded by Ekong to approve the agenda and consent agenda as presented.

Approve City Council Minutes of:

- Regular Meeting of September 17, 2018

Receive Bills List:

- Accounts Payable Week of September 24, 2018
- Receive Board and Commission Minutes:
- Housing Commission: 6/30/18
- Receive Departmental Reports: None
- Board and Commission Appointments: None
- Mobile Food Vending Applications Form Revisions
- Request to Dispose of Assets / Security Camera DVR

Motion carried unanimously.

NEW BUSINESS

A. Special Event Request

North Center Brewing Oktoberfest Fundraiser for Our Lady of Victory Church

The City of Northville received a request from Kevin DeGrood, owner of North Center Brewing Company, to conduct “Oktoberfest,” on October 6, 2018 from 12:00pm-12:00am. The event is a fundraiser for Our Lady of Victory (OLV) Church and School.

Event details include:

- Live acoustic music from 4:00pm until 11:00pm.
- Food and craft beer offered by North Center Brewing Company.
- Event will be held inside from noon until midnight, and outside from noon until 10 p.m.
- It is expected that 500 patrons will attend throughout the event.
- Tents will be set up to extend the current outdoor serving area and will have proper heat and emergency lighting as required.
- The sidewalk around the event will be inaccessible and pedestrians will be directed to cross at W. Dunlap or Lake Street to access the west side of N. Center Street.
- Any services provided by the Department of Public Works or Police for signage or barricades will be invoiced accordingly.

North Center Brewing will be serving beverages in accordance with MLCC guidelines and will provide a Certificate of Insurance for \$1M General Liability and \$1M Liquor Liability, naming the City of Northville as an additional insured and provide a separate copy of the Policy Endorsement that shows the City as an additional insured, and a Hold Harmless Agreement.

City Council Discussion: In response to City Council questions, the applicant clarified the following:

- The application was submitted within the required timeframe as outlined in the City’s Special Events Policy.
- 500 attendees are expected throughout the day. All 500 people would not be onsite at the same time.
- The building has room for 81 attendees. The tents hold 250 people. The bulk of the event will be on the sidewalk.
- Acoustic music will be outdoors from 4:00pm to 8:00pm. It will be located west of the building and positioned so that the sound travels toward the building. Live music will be inside the building after 8:00pm.
- The special event tent set up was changed so that it did not use onsite parking spaces.
- Additional parking options include the Kroger parking lot and parking lots for the offices north of North Center Brewing. Signs will be posted to direct attendees to alternate parking, keeping them from parking in the neighborhood.

- DeGrood will be onsite during the event and will continue to be a good neighbor, and continue to be responsive to any complaints received from the neighborhood during the event.
- OLV was not interested in having their fundraiser at the church or school. OLV did not want the event held in Town Square as it is not a public event. They wanted it at North Center Brewing. At OLV's request, one tent will be exclusively used for OLV members.
- DeGrood has been involved in other special events in the downtowns. He has been a good steward and addressed every concern raised during those events.

A separate comment from Council voiced concern with traffic and people stopping to listen to music. It was also noted that a letter objecting to the outdoor portion of this event was submitted by Matt and Carrie Mowers, 131 Rayson Street; David Marold and Sheila York, 443 Grace Street; Tim and Katja Skillman, 134 Rayson; Jeff and Chris Grauer, 453 Grace Street; Brett and Carin Meyer, 437 Grace Street, and Tom and Lori Rogola, 465 Grace Street. City Council was satisfied that DeGrood's plan addresses the neighborhood concerns.

Motion Price, seconded by Ekong to approve the request from Kevin DeGrood of North Center Brewing Company to conduct a fundraiser for Our Lady of Victory on October 6, 2018 from 12:00pm-12:00am as specified above given the insurance certificate, endorsement, and Hold Harmless are received by the City Clerk. **Voice vote. Yes: Ekong, Giesa, Price, Roth. No: Darga. Motion carried.**

B. Proposed Demolition of Main Street School

In August 2018, representatives of Northville Public Schools appeared before the Historic District Commission (HDC) to report on its plan to demolish Main Street School and sell the land to a developer who would construct four single-family homes on five lots on the property.

The School District's position is that the Michigan Revised School Code grants the State Superintendent of Public Instruction "sole and exclusive jurisdiction" to review and approve:

- (1) Plans and specifications for construction, reconstruction, or remodeling of school buildings; and
- (2) Site plans for those school buildings.

As such, the School District does not intend to seek approval of the Historic District Commission for the demolition of the building.

On September 5, 2018, City Council held a closed session with the City Attorney to discuss his written opinion regarding this matter. The City Attorney disagrees with the conclusions of the School District and opined that the City's Historic Preservation Ordinance requires that the demolition of Main Street School be approved by the Historic District Commission.

City Staff recommended that City Council give direction to the City Attorney as to whether or not to legally challenge the demolition of Main Street School by the School District.

The Mayor opened the meeting to public comment, and explained each person would have a five-minute time limit to make their comments. Several speakers read from written statements and provided a copy of that statement to the City Clerk. The comments were summarized, and the written statements are part of the City Council meeting packet on file in the City Clerk's office.

Denise Nash, 417 W. Dunlap Street, spoke in support of the demolition. Comments noted this was a great building and she is not normally supportive of demolishing buildings in the Historic District. SB702 dated January 12, 2018, removes deed restrictions on a school building. If the building is not

demolished prior to being sold, new owners could put in a charter school, which takes away money from the public schools.

Mary Kay Gallagher, Northville School District Superintendent, and James Mazurek, School Board Member, submitted a written statement dated October 1, 2018, speaking on behalf of the Northville School District, its Trustees, students, parents, and more than 100 property owners. The School District requested City Council not take action to sue the Northville School District.

Key points included binding legal precedent, litigation would result in a loss of over \$1.3M of net proceeds to the District that would go into the General Fund for student benefit, litigation may result in termination of the pending sale and proposed low density construction of four new homes on five lots, the demolition is needed to complete parking lot plans for Old Village School, a vote to litigate would not allow redevelopment of this property as supported by the school community and the neighbors of Main Street School, litigation is estimated to cost the City and School District over \$300,000 in legal fees, forcing the District to retain the property would cause undue financial hardship to the School District, and retaining the resource is not in the best interest of the majority of the community.

Legal reasons included an Attorney General Opinion that states a school district is not required to obtain a permit under the Local Historic Districts Act before beginning work affecting the exterior appearance of a school building; State law that gives the School Superintendent sole and exclusive jurisdiction over the review and approval of plans and specifications for the construction, reconstruction, or remodeling school buildings used for instructional or non-instructional school purposes; the Michigan Supreme Court decision in Charter Township of Northville v Northville Public Schools; State law that delegates enforcement to the Michigan Department of Licensing and Regulatory Affairs for demolition permits; the Michigan Constitution which gives the School District legal authority to sell the building; and Revised School Code that gives the District the authority to construct, maintain, repair, and renovate school buildings, and dispose of or convey school property.

Mary Elwart-Keys, 502 W. Main Street, submitted a written statement dated October 1, 2018. Elwart-Keys was assisted by John Kaloustian, 870 W. Main Street in noting the following summarized key points: For three years, Northville Public Schools has discussed many scenarios involving Old Village School and Main Street School; the current plan to demolish the property and sell it to a private owner to build four houses was assumed to be the final scenario; and cited meetings dates in which the City of Northville was involved or informed of the School District's plan including a June 15, 2016 HDC meeting and the September 6, 2016 Planning Commission meeting where Commissioners discussed the overall concept plans for Main Street School site and demolition of the school building, and the March 2017 School District walking tour and workshop that also discussed demolition of the building. The HDC, Planning Commission, and City Council were well aware of the School District's demolition and redevelopment plans, and no due process was provided to the School District prior to tonight's agenda item to threaten litigation.

Financially, litigation will impact the City, Township, and School District, waste education dollars in carrying costs on the empty school building, and create a financial hardship. The Superintendent has an empowered right to dispose of the building in a manner that best serves the District, and there is legal precedent to support that right.

Kaloustian noted the Northville community was engaged in the Request for Proposal (RFP) process and the decision made by the School District. About 200 letters were sent to the School District opposing multi-family dwelling proposals that would affect safety, traffic, and property values. The community and School District mutually concluded that replacing Main Street School was the best solution for Old Village School preschool, the community at large, and the Historic District neighborhood. HDC

members did not attend the School District meetings during the RFP process to understand resident concerns. Further, HDC members did not attend the September 14, 2018 State Historic Preservation Review Board meeting pertaining to the Northville National Register nomination. Action on the nomination was postponed to January 2019. During the meeting, State Historic Preservation Office (SHPO) stated that it would not stand in the way of the School District's plan to demolish Main Street School.

Kaloustian suggested the City and School District meet so the City could gain an understanding about the inevitable loss of Main Street School, and the financial and safety benefits the School District's plan provides to the community.

Leanie Bayly, 223 Linden Street, submitted a written statement dated October 1, 2018, which implored City Council to abide by the Historic Preservation Ordinance and require the School District to submit a demolition application to the Historic District Commission. In listening to the comments this evening, Bayly voiced confusion as to why the City Attorney would recommend that Council review the demolition of this building. The City has had a Historic District since 1972. SHPO states that the HDC is charged with ensuring that the Historic Preservation Ordinance is followed, including plans for demolition. Demolition of this building falls under the HDC's jurisdiction. The School District should be required to follow the Historic District's rules, standards, and regulations.

The Mayor explained that the matter before City Council was whether or not to direct the City Attorney to engage in litigation to enforce the requirement that the School District go before the HDC for a demolition permit. City Council is not reviewing the merits of the proposed demolition of Main Street School. Bayly implored City Council to take legal action to its fullest extent and require the School District to follow the City's Historic Preservation Ordinance.

Tish Lee, 312 Randolph Street, noted she lives in the Historic District and believes in the Historic District. She wished the HDC was more affective with historic preservation. Lee has spent a lot of time and money to renovate her house and it is still a contributing resource in the District. Lee would like Main Street School preserved, and she understands the issues before the School District in preserving the building. The building has historic and architectural significance. Lee is an attorney and noted the threat of litigation does not mean there will be years of litigation. Lee suggested some negotiation or accommodation might be appropriate to allow the School District to have the HDC review a demolition permit request, and the HDC might decide to grant a demolition request. She was interested in reading the City Attorney's legal opinion.

Jennifer Luikart, 521 W. Cady Street, spoke of the HDC and the Historic District as a whole, as the Historic District rules and ordinances do not appear to apply to everyone. The HDC task is to preserve and protect the Historic District. HDC decisions did not protect her property and its value. The School District has other options for the property than demolition, and other options fit the Master Plan. Luikart did not believe that AG Opinion 6957 applied to this situation. The Historic Preservation Ordinance applies to residents, businesses, and schools. Luikart's home is located behind Main Street School. She is opposed to demolishing Main Street School.

Brad Plymale, 230 First Street, voiced support of the School District's proposal and the demolition of Main Street School. Tax dollars should not be spent in litigation. The City and School District need to find an amicable solution.

Cynthia Steinberg, 404 W. Main Street, spoke on behalf of Kathy Spillane who was unable to attend the Council meeting. Spillane supports the School District's decision to demolish Main Street School. The

original building has changed significantly from how it looked when it was first built. Spillane also opposed any legal challenge.

Luci Klinkhamer, 430 Lake Street, is opposed to demolishing Main Street School. She voiced disappointment in the School District accepting a proposal that did not preserve and reuse the building. Other submitted proposals took preservation into consideration but were discounted by the School District. Demolishing the building makes way for a known local developer to build more fake historic houses. She questioned if the developer would be required to rezone the property, and would the new house be under HDC jurisdiction.

Toulla Palazeti, 105 Linden Street, supports the demolition of Main Street School, citing public safety is a priority. The neighborhood will be compromised if preserving Main Street School in favor of a development that has too much density and increases area traffic.

Jackie Dobson, 235 Rayson, stated the School District should respect and follow the Historic District rules and guidelines.

Tim Luikart, 521 W. Cady, attended the School District meetings, and followed their RFP process. The School District is paying the demolition and environmental costs. Demolition creates the path for more new fake historic homes, defeating the purpose of the Historic District. Main Street School is a contributing resource. The City should challenge the School District to go back and look at redevelopment opportunities for this building. The City should litigate or negotiate with the School District to save the building. Litigation does not have to continue for years and can be stopped at any time.

Bill Moses, 312 Randolph Street, does not support demolishing Main Street School. The community should pause to consider what it is giving up in demolishing the building. Builders have made the Historic District non-confirming. Demolition would be a serious mistake for the neighborhood.

Jeff Palazeti, 105 Linden Street, voiced concern with parking on Linden Street, and if any plans for this site would change the street parking rules and regulations. He was also concerned with construction traffic.

Roland Hwang, Northville School Board, stated that he was in favor of preservation, and wasn't sure the School Board did enough to determine if the other proposals could have been tweaked to address the neighborhood concerns. However, the School Board does speak as a unit, and it decided to move forward with the proposal that included demolishing Main Street School. Hwang spoke of the power of the Attorney General (AG) Opinion. The AG Opinion was litigated in court and the litigation involved Northville Township and the School District. Hwang believed the legal authority for the School District to report directly to the Michigan Department of Licensing and Regulatory Affairs is iron-clad. He urged City Council to not litigate the matter.

Eileen Gikas, 514 W. Main Street, was opposed to demolition. The School District should research other options to save the building that did not include a multi-tenant option. The cost to demolish the building may also be the same cost to preserve the building. There was value in the other proposals submitted to the School District. Gikas was willing to help find other options.

As no one else wished to speak, the Mayor closed public comment.

City Council Discussion: Mayor Roth noted he had attended all of the HDC meetings and NPS meetings where Main Street School was discussed, and has heard all of the arguments. What has not been heard, is

the legal opinion given to City Council by the City Attorney. City Council must consider all of the factors in the opinion, while being sensitive to not breaching its attorney/client privilege. Whereas City Council would not divulge details on the City Attorney opinion, or strategies, it was noted that the City Attorney has a different view of the Attorney General Opinion and case law. City Council and the City Attorney discussed the significant distinctions between the case law the School District is relying on, and the interpretation of that case law. Although many legal arguments and points were presented this evening, this is not the venue to discuss them.

It was also clarified that whether Main Street School should be demolished was not the matter before Council this evening. Main Street School may or may not be an asset, and that determination is not relevant to the discussion. The matter before City Council is whether it should take action to enforce City ordinances and procedures and compel the School District to follow the ordinance and seek HDC permission prior to demolishing Main Street School.

It was noted that City Council and its residents are appreciative to the School District for its open, thorough, and transparent process of its plans for Old Village School and Main Street School. The School District has been willing to sit down and talk whenever asked. The School District is a good neighbor, a valued partner, and an asset for the City.

The Mayor disclosed that he is former member of the Northville Board of Education. This makes the decision very difficult. Roth recognized the School District's reasoning for its stance, and if still on the School Board, he may have agreed with it. The City and the School District disagree on one point, which is whether the School District needs to seek HDC approval prior to demolishing Main Street School.

It was also stated that decisions should not be based on good/bad neighbors, nor should decisions be based on who the City likes/does not like. Everyone should be treated equally. The ordinances and processes are clear. The School District cites State law and other legal authority to support its position that it is exempt it from having to follow the City's Historic Preservation Ordinance. The City Attorney has other legal arguments to support the City's position of adherence to its ordinances and processes. The law is not very clear on this matter. If the City does not defend its ordinances, how does it handle the next petitioner. If the City Attorney defends the ordinance, the project could still happen. The City is not opposed to the new project. However, it does believe its laws and processes need to be followed, including the School District seeking HDC approval for a demolition permit prior to demolishing Main Street School.

Councilmember Price echoed Roth's comments, and also disclosed her prior connection to the School District as a School Board Member. Price acknowledged this is a difficult decision. Whether to direct the City Attorney to litigate is not about the project. It is about whether the ordinance also applies to the School District. The City's ordinances should be followed equally across the City.

Councilmember Ekong agreed this is not a demolition decision. He appreciated the thoughtful comments presented this evening. The issue before City Council is whether the City should preserve its authority with its ordinances and procedures.

Councilmember Giesa concurred with previous Councilmember comments.

Mayor Pro Tem Darga noted that she prefers to not spend money for legal battles that do not have a certainty of outcome. However, she has a passion for the Historic District. Darga also cautioned the HDC to give the School District a fair review of any demolition application, questioning if the original integrity of the building is still there. Darga also questioned if any of the original proposals included restoring the

building to its original integrity. Darga wants to respect the Historic District and hoped that both sides could find a resolution to this issue.

Motion Price, seconded by Darga to direct the City Attorney to legally challenge the demolition of Main Street School by the School District, and Northville Public School’s position that they are not required to seek Historic District Commission permission prior to demolition. **Motion carried unanimously.**

MAYOR AND COUNCIL COMMUNICATIONS

A. Mayor and Council Communications

Roth spoke about Household Hazardous Waste Day event, noting he had received several letters from residents that praised DPW for a well-run event. Long lines moved very quickly. Roth voiced appreciation to DPW for organizing and managing this event.

Roth noted that the second community forum open house pertaining to the Street Improvement Bond proposal is from 1:00pm-3:00pm, on October 20, 2018 at the Community Center.

B. Staff Communications

Sullivan noted that all service providers concurred with the Great Lakes Water Authority (GLWA) and Oakland County Water Resource Commission plan to seek a declaratory ruling on new Michigan Department of Environmental Quality lead and copper line regulations. The new rules prohibit partial replacement of lead service lines when found during a watermain break, and makes the local municipality responsible for replacing water leads on private property that are found to contain lead. There are many concerns with how this would be enforced as the leads are on private property. Further, it is an unfunded mandate and there is no funding mechanism or legal right for the City to go on private property. Sensible and manageable regulations are needed.

Being no further business, the meeting was adjourned.

Adjournment: 8:57p.m.

Dianne Massa, CMC
City Clerk

Ken Roth
Mayor

Approved as submitted: 10/15/18