

GENEVA CITY COUNCIL MEETING MINUTES
(Special Meeting)

Tuesday, September 26, 2023

City Hall Council Chambers
109 James St., Geneva, IL 60134

CALL TO ORDER

The Geneva Special City Council meeting was called to order by Mayor Kevin Burns at 7:00 p.m. in the City Hall Council Chambers.

Elected Officials present:

Alderspersons: Anaïs Bowring, Mike Bruno, Becky Hruby, Brad Kosirog, Craig Maladra, Richard Marks, Amy Mayer, Martha Paschke, Robert Swanson.

Mayor Kevin Burns, City Clerk Vicki Kellick.

Elected Officials attending by video or teleconference: None.

Elected Officials absent: Dean Kilburg.

Others Present: City Administrator Stephanie Dawkins, City Attorney Ron Sandack Community Development Director David DeGroot.

Others attending by video or teleconference: None.

Mayor Burns invited Ald. Bowring to lead the Pledge of Allegiance.

CONSIDER RESOLUTION NO. 2023-102 REVERSING THE AUGUST 15, 2023 DETERMINATION OF THE HISTORIC PRESERVATION COMMISSION TO DENY A REQUEST FOR DEMOLITION AND DE-DESIGNATION OF THE HISTORIC LANDMARK LOCATED AT 4 EAST STATE STREET.

Mayor Burns read the following opening remarks:

This evening the City Council will consider Resolution No. 2023-102, which is the owner-applicant's appeal of the Historic Preservation Commission's determination on August 15, 2023 to deny approval of a demolition permit request and the de-designation of the historic landmark located at 4 East State Street in the City of Geneva, Illinois.

The City Code provision for an Appeal of any determination by the Historic Preservation Commission is found within Section 10-6-10(A10):

"Appeal of a Demolition Denial to City Council. If an application for any demolition work is not approved by the Historic Preservation Commission, then the applicant may request, in writing, to the director of community development that an appeal of the commission's decision be made to the city council. Both the applicant and the commission have the right to be heard at the appeal proceedings. Upon consideration of the written record of the commission's

decision and the applicant's appeal, the city council shall grant or deny the application for proposed demolition work. Within thirty (30) calendar days after such an appeal is made, the city council shall, by resolution, affirm, or reverse the commission's determination according to the applicable standards set forth in this chapter. In accordance with said standards, the city council may also modify the commission's determination.

A reversal or modification of the commission's determination shall be approved by a vote of not less than two-thirds (2/3) of the aldermen then holding office."

PLEASE NOTE...the separate reference to the word "modify" relating to the Historic Preservation Commission's decision...as it appears in the City Code language just read...is relevant only if the Historic Preservation Commission had placed conditions on its determination, which in this instance the Historic Preservation Commission did not (e.g., "the applicant may demolish after undertaking the following acts...").

Because no conditions were attached to the Historic Preservation Commission's denial recommendation, there is nothing for the Council to modify; leaving the Council only to determine if the Historic Preservation Commission's denial decision on August 15, 2023 was proper.

Because the Council is sitting in a semi-judiciary and appellate capacity, rather than in its far more typical legislative capacity, It's important that everyone understands and respects the standards by which the Council must adhere to for tonight's proceedings relative to its appellate/review function.

Save for presentations by The Shodeen Foundation and a representative of the Historic Preservation Commission, Commissioner Jewel Jensen, there is no additional fact-finding of any kind to be undertaken.

In other words, there will be no opportunity for anyone to provide any remarks about this matter other than the parties aforementioned.

The Council's review is constrained to the complete evidentiary record adduced at the Historic Preservation Commission level and all such facts comprise the SOLE source of information relative to this appeal. Period.

Next, because the Council is sitting as a review body, and is confined to the evidence within the underlying record, the Council is limited to either upholding the determination of the Historic Preservation Commission OR, if error(s) is found, reversal of the Historic Preservation Commission decision on August 15, 2023.

There can be no bifurcation or fashioning of any other remedy or outcome.

Alternate outcomes or determinations under other theories for moving forward are not within the purview or jurisdiction of the Council tonight; only the propriety of the Historic Preservation Commission's decision;

Reverse the Historic Preservation Commission's decision or uphold the Historic Preservation Commission's decision on August 15, 2023 is the question and only question for this evening.

Is there any Council member who wishes to ask a question of the City Attorney as to the standards and proceedings just outlined?

There were no questions asked.

I will entertain a motion to Consider Resolution No. 2023-102 Reversing the August 15, 2023 Determination of the Historic Preservation Commission to Deny a Request for Demolition and De-designation of the Historic Landmark Located at 4 East State Street.

Moved by Ald. Marks, Seconded by Ald. Mayer.

Shodeen representative Kate McCracken stated that the Historic Preservation Commission had to find only one of four conditions under the ordinance in order for the demolition permit to be approved. Ms. McCracken noted that this appeal was brought because at least one, and perhaps multiple, of these conditions was met:

1. Section 10-10-6 of the Ordinance requires that an inspection be performed by the Preservation Planner, the City Building Official, the Code Enforcement Officer, the Chief of Police, and the Fire Chief. She noted that the ordinance states that this inspection shall take place upon a demolition request, but that the City stated that because there were no occupants and no threat to safety, such an inspection was not required. Ms. McCracken stated that this was a fundamental legal flaw in the process which has consequences.
2. There is evidence that the building is a deterrent to a major improvement program that will be of substantial benefit to the community. Ms. McCracken noted that there is no development opportunity as long as the structure remains, and the developer is prohibited from doing anything further.
3. The structure will cause undue hardship and all other alternatives to remove such a financial hardship have been exhausted. She noted that every possible alternative cannot possibly be exhausted and stated that no one has said that they were willing to pay to develop the property and provided a feasible alternative to demolition. She stated that the rock and stone are disintegrating but not because of anything the developer has done. She noted that this was a blacksmith shop only for a couple of decades and did not remain a blacksmith shop after 1860.
4. The retention of the structure is not in the best interest of the community. She noted that this is part of a TIF, the purpose of which is to stimulate development in a blighted area. She stated that this is not what people want to see when coming into Geneva and that just because a structure is old doesn't necessarily make it historic.

She asked the Council to consider the resolution as it was put before the Council today.

Historic Preservation Commission representative Jewel Jensen then presented a summary of the group's key findings over the course of seven months. She stated that the Commission acknowledged that the structure is a historical and cultural landmark and is the earliest surviving example of the water-powered industries that once lined the Fox River. It served as a carriage and wagon shop, a barrel-making shop, and laundry among other important businesses. She noted that it also housed

the Mill Race Inn beginning in 1933 which was a women-owned business. The property was identified in the 2008 Historic Preservation Plan as one of 63 properties that should be landmarked and protected. Ms. Jensen noted that the HPC recognizes the importance and the strategic location of the property in a key redevelopment area. She noted that the HPC acknowledged that the property was identified as Opportunities Site 6 in the 2012 Downtown Station-Area Master Plan adopted by the City Council.

She stated that the issue of historical significance has been established and that the Shodeen Family Foundation has done little to maintain or preserve the structure since 2016. She stated that during the seven months of hearings, a significant number of residents and organizations spoke in favor of preserving the structure but that very few spoke in favor of destroying the building. The underlying message of the public was that once a structure is demolished, it cannot be retrieved, but that creative redevelopment would preserve the structure and allow development of the area. Additionally, a review of a report by Atlas Works showed that the structure is not structurally unsound.

Ms. Jensen stated that City Code 10-6-10 provides that demolition can be considered only when all other options have been exhausted. The HPC identified the following findings of fact on August 15, 2023:

1. Historic Landmark structure is not a deterrent to a major improvement project;
2. The building does not pose a safety hazard to the general public;
3. The rehabilitation of the structure appears to be technically feasible;
4. The applicant did not show that all reasonable development options have been exhausted;
5. The applicant did not investigate all alternative funding sources;
6. Teska Associates and The Planera Group identified a path for financial feasibility for repurposing the structure;
7. Preservation of the structure has not been proven to be an economic hardship for the applicant, and
8. Destruction of the structure is not favored by the majority of the community members.

She noted that all seven members of the HPC rejected demolition of the structure and asked the Council to uphold the determination of the HPC.

On a question from Ald. Hruby, Attny. Sandack noted that the Council is acting in an appellate capacity. He stated that Council members will vote “aye” for a reversal of the HPC determination and “nay” to affirm the ruling.

On a question from Ald. Bruno, Shodeen President David Patzelt confirmed that the parcel was offered to the Park District several years ago. Ald. Bruno then commented that the structure was not a deterrent to further development since it seems that there would have been an expectation of development there. He noted that the HPC’s findings of fact are spot on. On a question from the Alderperson, Attny. Sandack explained that the record from the HPC suggests that Mr. Patzelt had informal conversations about TIF money but that no formal TIF process was followed. He noted that the HPC record shows that demolition applications were proceeding while discussions were occurring. Ald. Bruno commented that he believes that the HPC ruling was correct and that not all avenues were explored.

Ald. Bowring stated that she agreed with Ald. Bruno. She noted that the HPC followed the process laid out in the City Code and was clear in laying out its findings of fact. She noted that according to testimony from Teska and Planera there are viable options for redevelopment at the site. She also noted that Shodeen is aware of TIF funding. She concluded that the applicant's demolition request does not meet the threshold required for a reversal to be granted and hopes that there is a way to partner productively going forward.

Mayor Burns asked if the City Council was ready to vote on the matter and explained that a "nay" vote supports the HPC's determination, while an "aye" vote supports the request for demolition and de-designation.

On a question from Ald. Bruno, Attny. Sandack commented that the question regarding a one-year cooling-off period was not germane.

Roll call:

AYES: 0

ABSENT: 1 (Kilburg)

NAYS: 9 (Bowring, Bruno, Hrubby, Kosirog, Maladra, Marks, Mayer, Paschke, Swanson)

MOTION FAILED

PUBLIC COMMENT

Lee Eysturlid thanked Geneva citizens and commented that the east side often feels left out. He feels that the City Council has been slandered by Shodeen. He noted that the Shodeen plans for building on the site would have been disastrous and that it's now possible to think about something better there in the future.

Colin Campbell thanked the Council. He noted that Shodeen created a beautiful and financially viable structure at Dodson Place. He noted that Shodeen also redeveloped the Howell Iron Works building on the north side of State Street and did the same on the south side of the river with The Herrington. He noted that the company has been very creative and is hopeful that this can continue.

Carolyn Zinke noted that she is a former member of the HPC and that her husband Fred filed the original application for the structure to be considered historic. She noted that Shodeen has done wonderful things in town and hopes that they will continue to do so.

Erica Eysturlid thanked the Council for considering all of the information and for considering the community. She noted that there is an opportunity to save this building and ensure a creative use of it.

NEW BUSINESS

None.

ADJOURNMENT

There being no further business, moved by Ald. Marks to adjourn the Geneva City Council meeting.

MOTION CARRIED by unanimous voice vote of those present.

The meeting adjourned at 7:45 PM.

Vicki Kellick
Geneva City Clerk