

No sale - Shaker Regional school attorney shoots down Gale School land donation



The Gale School. (David Carkhuff/Laconia Daily Sun)

BELMONT — In a newly released legal opinion, the Shaker Regional School Board's attorney said the School Board cannot donate school district property to a nonprofit corporation, which negates an important part of a plan to save the Gale School.

School district legal counsel Jim O'Shaughnessy with Drummond Woodsum in Manchester wrote that the school district, as a rule, "cannot spend public funds unless the purpose is directly related to the support of the District's public schools."

"Although the legislature has empowered the District to purchase school lots and build schools, it has not authorized the District to refurbish or move historic buildings at taxpayer expense, or to donate land and buildings to private individuals or corporations without being reimbursed or paid for the land and building," O'Shaughnessy wrote.

The March 10 letter from O'Shaughnessy to the school district, as recently as March 28, had been withheld from the public as a confidential attorney-client communication. But the school district has changed course. Now, a link on the school district website, www.sau80.org/gale-school-information, includes access to the letter.

At 5 p.m. Tuesday, April 11, the Shaker Regional School Board scheduled the Gale School issue as an action item at its board meeting at Canterbury Elementary School.

In 2016, after a ballot vote, 128 people at the Shaker Regional School District meeting voted to save the school while 104 voted to tear it down. As a compromise, voters directed the Shaker Regional School District to either sell for a nominal fee or donate the Gale School to the Save Our Gale School Committee, on the condition that the group acquire a federal nonprofit 501(c3) status before voting day in 2017. Committee members now note that they have secured that status.

One condition of the public vote last year was that the school district give a lot at the corner of Concord Street and Memorial Drive to the committee as a future home for the historic school building.

But in O'Shaughnessy's opinion, the School Board "is not permitted to sell the building for \$1 and donate school district property to a nonprofit corporation, because that would not serve a school district purpose."

"In my opinion, the District cannot raise and appropriate funds to preserve a historic building because such expenditure would not be related or incidental to any legitimate public purpose," he wrote.

"Further, the District is comprised of two towns, Belmont and Canterbury; the restoration and repurposing would only benefit the citizens of one town in the District. Accordingly, the District is prohibited by law from spending taxpayer dollars (a portion of which were raised from taxpayers in Canterbury who would not benefit from the expenditure) to move or preserve the Gale School unless the building will be used for a District purpose," O'Shaughnessy wrote.

O'Shaughnessy urged the school board to come up with its own recommendation.

"The voters cannot mandate the sale unless the Board first recommends it," he wrote. "Is there a potential future use of this property? Does the Board need to keep it for a legitimate and identified contingency? This determination will dictate the plan, but the Board needs to make a final decision on this issue and communicate the decision to the citizens."

Ken Knowlton, member of the Save Our Gale School Committee, said that the vote in 2016 provided specific direction.

Knowlton and fellow committee member Diane Marden wrote a letter Monday to the Shaker Regional School Board reacting to news coverage of the March 28 School Board meeting where trustees referred to the legal opinion.

In their April 3 letter to School Board members, Marden and Knowlton reported "great surprise and disappointment" about learning how the School Board was approaching the issue of Gale School restoration.

"We respectfully request that the Shaker Regional School Board promptly provide the SOGS Committee with a copy of our Shaker School District's attorney's opinion regarding this issue and that the discussion concerning the fate of the Gale School be postponed until you next meet in Belmont," Marden and Knowlton wrote on behalf of the committee. "This will give us time to have our SOGS counsel review the opinion of the School District attorney, and will also make it more convenient for Belmont residents to attend. After all, the Gale School is a very important part of Belmont history."

The letter notes that the committee is "not trying to be adversarial" but wanted voters to have a chance to hear the discussion.

Shaker Regional School District Superintendent Michael Tursi said Wednesday that the Marden and Knowlton letter would be opened by School Board members at their April 11 meeting, per common practice with correspondence to the board.

Knowlton and other advocates for saving the Gale School have accused the School Board of shrugging off the building's historical significance and demonstrating little concern for saving the building. School Board members have offered to leave unspent a \$71,000 allocation for moving the Gale School, in effect turning the money back to

taxpayers.

"Gale School was constructed by Cyris Norris for the Town of Belmont in 1894," reports the website, Save Our Gale School 1894 (<http://belmontnh.homestead.com/GaleSchoolSAVE.html>). "It was later named Gale School after Napoleon B. Gale who left \$10,000 to the Town." In 1985, when Belmont Elementary School was built, "the Gale School ceased operation being used for cold storage."

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