

MINUTES
WOODSTOCK CITY COUNCIL
September 2, 2014
City Council Chambers

The regular meeting of the Woodstock City Council was called to order at 7:00 PM by Mayor Brian Sager on Tuesday, September 2, 2014 in Council Chambers at City Hall. He explained the consent calendar process and invited public participation.

A roll call was taken.

COUNCIL MEMBERS PRESENT: Julie Dillon, Maureen Larson, Mayor Brian Sager, Mark Saladin, Joseph Starzynski, RB Thompson, Michael Turner

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: City Manager Roscoe Stelford, City Attorney Ruth Schlossberg, Finance Director Paul Christensen, Director of Public Works Paul Ruscko, Economic Development Director Cort Carlson, City Planner Nancy Baker, Economic Development Coordinator Joe Napolitano

OTHERS PRESENT: City Clerk Dianne Mitchell

A. FLOOR DISCUSSION: McHenry County EDC Presentation

Mayor Sager stated that there will be a presentation by the McHenry County Economic Development Commission and he introduced Pam Cumpata, Executive Director of McHenry County EDC. He advised that Councilman Saladin is a representative on the Board of the EDC.

M. Saladin thanked Roscoe and the Mayor for placing the item on the agenda and advised that they want reintroduce the EDC to Council and the public. He advised that they know that the City of Woodstock is an investor and that Staff through C. Carlson and others utilize the resources of the EDC. He reported that last year the board went through a strategic planning process and noted that one of the vision statements they had created a number of strategic priorities. He advised that one of the priorities is to become the go-to organization which is to provide greater collaboration and cooperation with like minded organizations. He stated that from a municipal standpoint, EDC wants to be there to collaborate with the City to make their resources available to the City to assist everyone with economic development overall. He stated that tonight they will have a short presentation and advised that it is a relationship that they want to build and reported that he will be talking to the various municipalities in the county.

M. Saladin reported that next week is the International Manufacturing Technology Show in Chicago and he advised that the EDC takes a large part in respect to contacting local school districts to have students participate in the show. He reported that through corporate sponsors they are providing bus transportation and noted that D200 is taking advantage of it on September 12th. He advised that it opens the eyes of a number of students to what the technology that is out there. He introduced Pam Cumpata who is the President of the McHenry County EDC and reported that she has been with the group since July 2009 and advised that prior to her involvement with the EDC she was in business banking for 23 years. M. Saladin stated that he is on the Board of Directors for the EDC.

P. Cumpata gave an overview on economic development and stated that everyone in the room has a different definition. She stated that economic development is about creating the foundation and atmosphere for a job. She reviewed the sectors that exist in the environment to creating a job. She reviewed the reasons for doing it such as increasing your tax base, economic diversification,

business retention, job development, self-sufficiency and quality of life. She reviewed the tools needed to create a solid foundation such as transportation, good schools, housing, high-speed fiber and internet access, the future workforce and a sound, local government. She reported that the City of Woodstock's Gross Regional Product is 1.2 billion dollars. She stated that the output totals are high in manufacturing and then reviewed the employment by sectors in Woodstock.

P. Cumpata stated that in moving forward, she questioned what to look at. She advised that 80% of all jobs created in the local economy come from your existing industries. She stated that the business visitations and the retention and expansion of what is here is key. She stated that she has been out to manufacturing facilities with Roscoe, Cort and Joe. She asked everybody that if they hear something to raise it up. She stated that if they don't know they can't do anything about it.

P. Cumpata referenced attraction and stated that you need to know you want and even better know what you don't want. She reviewed building stock or knowing what you have and what you need. She discussed the current and future workforce as well as relationships with education systems. She reviewed specific projects that they are working on such as the Illinois Century Network Project to MCC. She provided information on working with Steve Thompson on internships at Charter Dura-Bar. She stated that she looks at economic development as a foundation building and advised that EDC tries to be the connector.

M. Turner asked what the best municipalities are doing to support economic development. P. Cumpata stated something very similar to what Woodstock is starting to work on with having a person working on the business retention/attraction side and developing a marketing plan and message. She advised that some of the municipalities have done SWOT analysis and brought in some businesses and building/land owners and took the gloves and asked what they are doing well and what they aren't doing well. She stated that once you get that designed, you put your marketing plan together and look at demographic data or leakage surplus reports and then start knocking on doors of businesses that fit your profile. She advised making sure that your plan is in line with your vision as a Council because knowing what you don't want is more critical and also be able to move a project forward quickly.

Mayor Sager thanked P. Cumpata and let her to know how much they respect and appreciate the significant leadership she provides to McHenry County EDC and the tremendous input and support provided by her board. He stated that one of the natural reactions to economic development is that we are always competitive with one another and we have to work against each other. He thinks the EDC sends out the message that we are better off if we work together in a strongly collaborative fashion to develop the region. He thanked them for the leadership and vision in that regard and he believes we are well positioned as a McHenry County region as we look to the future. He expressed appreciation for the owners and the investment they have made in our community. He stated that Woodstock wants to be strong partners within the EDC, within the community, with the owners and the larger region as we look to improve our economic lot.

Public Comments

Jill Hunt, 450 Fremont St., Woodstock stated that she wanted to address an email that she sent to Council about the unhappiness she has with the decision about allowing the medical marijuana dispensary to set up business here. She stated that she understands that it is a done deal but she wants to voice her concern that decisions such as this are not helping Woodstock reverse what she believes is a decline in what was a high-quality community. She believes it will damage the image long term. She reported that she has lived in Woodstock for 12 years and she has seen the decline firsthand. She stated that she used to frequent the Square when there were many more restaurants and shops and

noted that there was a time when walking to the Square in the evening to have dinner and walking home was a very nice experience. She reported that many of the homes were being bought and fixed up and invested in.

J. Hunt stated that now we see a Square struggling to survive and there are unruly and drunk individuals hanging about in the evening or getting off the Metra. She reported that there are many homes that are being left to fall apart, being rented out or going into foreclosure and being sold to outsiders for nothing and then becoming rentals. She advised that she lives around Fremont and Madison and reported that they had an incident of a young man that shot his gun at the TV and then the bullet went into the neighbor's house. She reported that around the corner on Lawndale there was an individual who tried to steal marijuana from a drug dealer and then ran him over with a car and killed him. She stated that recently we had a homeless man that was drinking on the Square and later died in his tent in Ryder's Woods.

J. Hunt advised that she is no longer comfortable with walking home in the evening from the Square nor having her teenage daughter walk home from school in the evening. She believes the quality of the town is declining and the property values are reflecting that. She stated that when she reads the 2020 Vision Statement it makes her think it is a town that she wants to live in, but she wonders how allowing pawn shops, gambling stores, penny slot machines and now a pot shop is all going to get us to the Magic of Disney by 2020. She stated that it is 6 years from now and that's not that much time. She is sure the revenues from the gambling machines are great but we have to flip the coin and say is this really how we want the people in the community to spend their time and money in Woodstock. She questioned what kind of community we are creating down the road.

J. Hunt believes we are making decisions that are in direct conflict with the vision. She stated that she has a choice to make, in three years when her daughter graduates high school should she stay or go. She questioned what is being done to keep people like herself from leaving. She questioned what the incentive is to stay when she believes there are other communities nearby that can offer a much better quality of life, a thriving business community and a more stable environment for property values to hold or grow. She stated that she isn't here to be part of the problem and wants to be part of the solution. She feels that she has been doing her part, she restored a Victorian home, she's maintained the property, she has been active in her daughter's school and community events and she has shopped local first. She is asking them to stop making decisions that she believes are negatively affecting the hard work that people like herself are doing. She asked Council to please tell her what they are doing to achieve it, where are we and is it attainable.

Ellen O'Rourke, 435 Dacy St, Woodstock, stated that she agrees with J. Hunt's comments and reported that she been in Woodstock for almost 20 years and was formally on the Council. She too has seen a great decline in her opinion in the city in the last several years. She won't let my children, who are older, walk through the Square by themselves. She stated that she has walked the Square many times and she is dismayed by what she sees in and around the Square. She is dismayed for the people who live here and dismayed for the business owners that operate there. She questions the decisions this Council is making in the last few years and if whether they are taking the true interest of the citizens to heart in what is best for the city and not for some extra tax revenue but what is best for the citizens that live here and to attract citizens. She noted that she also know a number of people in Woodstock who do not want to stay here.

E. O'Rourke referenced the decision regarding the medical marijuana dispensary and stated that she was amazed by how quickly that decision was made. She stated that is it extremely easy to get a prescription for medical marijuana and this Council made that decision lightly in her opinion. She

questioned the message that it send to the citizens and to those who are thinking of coming here. She beseeched Council to consider their decisions carefully.

Jeff Gillaspie, 421 Farm Trail, Woodstock, stated that as a 12 year resident of Woodstock one of the things he loved is the Square and noted that he has a 6th grader and a 3rd grader and they would not normally take them down to the Square. He stated that there has been a change and everyone has seen it. He reported that he had a late lunch and walked through the Square and advised that the level of hooliganism and knucklehead behavior down there has reached a point where he is shocked that we are having this conversation in Woodstock because it wasn't occurring 12 years ago. He doesn't think it is necessarily a decision that anyone in this room has made, it may be a resource issue and noted that he looks at the police deployment in other cities and he thinks we need a stronger presence downtown dealing with this frequent behavior. He stated that he is down there 2-3 times a week and the majority of the time he witnesses this knucklehead behavior. He stated that it's to the point where the citizens of Woodstock like himself don't go down as much as they used too or they at least don't come down with their children or they do it on a Saturday morning. He advised that in the afternoons and evenings he and his wife make a second thought before they go down to the Square.

Mayor Sager thanked them for their expressed concerns to Council and asked for understand that the Council doesn't take their comments lightly nor the decisions they make lightly.

Council Comments

No comments from Council.

CONSENT AGENDA:

Motion by J. Dillon, second by RB Thompson to concur with Consent Agenda Items B-D, E2-E9.

- Mayor Sager removed Item E1
- M. Turner referenced Item E6 and stated that Council discusses prevailing wage in generic terms every time it comes up and the impact it has on the City. He thinks it is time for the City to start tracking it because until people see the impact they can't make a really good decision as to whether it is a good law or not. He stated that he doesn't think it is a good law. He reported that he asked for commentary from Staff who put together an estimate based on his question of how much additional have we paid as taxpayers and no longer have available to the City out of the \$950,000 spent on the Courthouse. He advised that it isn't a question if the Courthouse was worth it but the question is whether it is worth it to increase the cost because of this State law. He reported that the estimate Staff came back with was between \$158,000-\$219,000 additional dollars spent on this one project. He stated that Council had estimated that each year it costs the City an additional \$400,000-\$600,000 a year. He thinks it is time for every municipality, every school district and every park district in the state to track the impact of this law because it is costing tax payers millions of dollars. He thanked Staff and P. Christensen for pulling it together and he looks forward to future discussion.

B. MINUTES OF PREVIOUS MEETINGS:

August 19, 2014 City Council Regular Meeting

C. WARRANTS: 3629 3630 MFT 536

D. MINUTES AND REPORTS:

Police Report – July 2014

Opera House Advisory Commission Minutes – February 18, 2014

E. MANAGER'S REPORT NO. 30

2. **Oktoberfest Event Request** – Benton Street – Approval of the following:
 - a.) Approval to hold Benton Street Oktoberfest on Benton and Judd Streets as indicated between the hours of Noon on Saturday, October 11, 2014 and Midnight on Sunday October 12, 2014, conditional upon the items set forth within the Staff Report;
 - b.) Waiver of the prohibition of alcohol in the public way for the fenced event area only during specified event hours, with all alcohol consumption in the public way ceasing at Midnight on Sunday October 12, 2014;
 - c.) Closure of Benton Street between Judd Street and Off the Rails and E. Judd Street between Benton and Jefferson Streets between the hours of 6:00AM on Saturday, October 11, 2014 and 6:00AM Sunday, October 12, 2014;
 - d.) Approval of Ordinance 14-O-54 Imposing Certain Temporary Traffic Restrictions and Parking Restrictions for Benton and Judd Streets for Benton Street Oktoberfest in the City of Woodstock on Saturday, October 11, 2014 and Sunday, October 12, 2014.
3. **Woodstock-Lakewood Intergovernmental Agreement** - Adoption of Ordinance 14-O-55 approving an Intergovernmental Agreement between the City of Woodstock and the Village of Lakewood for the provision of building inspection services.
4. **Budget Amendment** – Adoption of Ordinance 14-O-56 amending the Fiscal Year 2013/2014 budget for the City of Woodstock, Illinois.
5. **Change Order** – Old Courthouse Lightning Protection – Adoption of Resolution 14-R-22 authorizing Change Order 001 resulting in an increase to the contract of \$2,400.
6. **Change Order** – Old Courthouse Roof – Adoption of Resolution 14-R-23 authorizing Change Order 011 resulting in an increase to the contract of \$65,373.75.
7. **Purchase** – Vehicle Lift – Approval of the purchase of a four-post vehicle lift through the GSA Schedules for a total installed price of \$36,301.20
8. **Award of Contract** - Autumn Ridge Relief Storm Sewer – Approval of an award of contract for the Autumn Ridge Relief Storm Sewer to the low bidder, Gaver’s Asphalt Paving and Excavating for the total bid price of \$28,153.40.
9. **Award of Contract** – Street Pavement Marking – Approval of an award of contract for the 2014 pavement marking program to the low bidder, Preform Traffic Control Systems for the total bid price of \$72,782.17.

A roll call vote was taken. Ayes: J. Dillon, M. Larson, Mayor Sager, M. Saladin, J. Starzynski, RB Thompson, M. Turner. Nays: None. Absentees: None. Abstentions: None. Motion carried.

Mayor Sager expressed his appreciation for the efforts of the merchants for Oktoberfest.

Mayor Sager noted that the City will be extending an intergovernmental agreement with Lakewood for the provision of building inspection services. He believes that one of the most significant things the City can do to be good stewards of the people’s resources is to work together.

Item E1 Old Courthouse Restaurant Lease – Adoption of an Ordinance authorizing a lease agreement between the City of Woodstock and KATLO Inc. for restaurant space in the lower level of the Old Courthouse.

M. Saladin indicated that his firm represents Mr. & Mrs. Lopprino and he recused himself. M. Saladin left Chambers at 7:43 p.m.

Mayor Sager stated that he was disappointed with the vote on the proposed long term lease of the Public House at the Old Courthouse at the last City Council meeting. He said there was a part of him that wanted to leave it on the consent agenda and let it go through but he thinks it is an important enough topic that may need a separate opportunity to discuss it. He advised that after that disappointment he is grateful to M. Larson and M. Turner who took a difficult position which could have inappropriately been misinterpreted as a lack of support for an existing business in the community. He believes it was a position to support and protect a well-established, investing business within the community, to support the ongoing Old Courthouse RFP process and procedure and to protect the City and its residents in terms of the long-term viability of the building.

Mayor Sager stated he was disappointed last time but he thinks that their tenacity did win out in his mind and reported that M. Turner and M. Larson worked Brian and Kathryn Lopprino to craft a better document. He noted that the document has a buy-out option which protects and provides a support for a local business, it enhances the City's ability to continue with the RFP process and it just made for a better overall lease document. He thanked them for the time they spent and the perseverance B. and K. Lopprino had in terms of forwarding the proposal. He believes the additions to the lease agreement are appropriate and make it a better document.

M. Larson thanked him for his comments and stated that it was a difficult vote. She reported that in the weeks since Council made the vote it has become clearer to her that it was a two-fold thing. She stated that it was a process issue that was internal and advised that Council embarked on a process to get the best outcome for the building. She noted that she is the Chairwoman of the RFP Committee and she takes it seriously and she felt that they were at the beginning of some of those processes. She is thinking big for that building but she isn't saying that she can guarantee a big outcome but she hasn't given up on that possibility yet. She stated that was the reason for her vote last week because the lease would have locked that building into 10-20 years with no option for a big entity coming in and really taking that building and running with it in a huge way.

M. Larson stated that she was struck by P. Cumpata's presentation that said what a smart city is doing to attract businesses to their community. She stated that they are putting staff members in place to retain and attract businesses, they are marketing themselves, they are knocking on doors searching out the businesses that are desirable and that fit with the vision and you have to know what you don't want; all of those things are true for this building. She believes Council needs to do the work to talk about their vision and go forward with the TAP process and focus groups to find out what the community wants. She believed the lease from last meeting was going to stand in the way of it but the new lease is an outcome that is much more favorable because it retains a very valued business and brings them into a space where they can grow and improve the Square. She believes everyone agreed that it was a good outcome for the space and the Lopprino's and she is happy to vote yes on it tonight. She stated that the buy-out provision gives the City the possibility that if somebody big does come that we will have not slammed that door.

M. Turner thanked Mayor Sager for his gracious comments and stated that he has to give credit to the State for the nature of the law that allowed that vote to fail last time. He stated that the purchase, sale

or lease of a city asset requires a super majority. He stated that if it was the outcome of slamming the door shut and saying no we don't want it for some ridiculous reason that is wrong and he knows that is probably felt that way when he left Chambers and even some of the phone calls he got the next morning. He stated that the purpose was never to not have a recognition of what the Lopprino's mean to the community and what they have done here, it was a recognition that if we could do a little better and make sure the Lopprino's were made whole in the process that we end with the potential of having something bigger in there and it isn't excluded during the initial phase of the lease.

M. Turner stated that to the credit of Staff who helped facilitate it and to the credit of the Lopprino's, they put a better agreement together. He stated that it was an economic development decision for him in regards to the vision of activity around that building and the ability to make sure they have every opportunity to maximize what could potentially go there. He agreed with M. Larson that Council needs to revisit this in more concrete terms and he admonishes Staff to be more aggressive and knock on those doors. He stated that an RFP process is a passive approach to development and it doesn't always produce the best outcome especially for a building like that. He stated that this building requires boots on the ground, knuckles on the door and pushing ideas to the limit. He stated that this agreement is about making sure to keep every option on the table. He thanked Mayor Sager for his gracious words, Staff's work and the willingness of the Lopprino's and others to consider this option.

J. Dillon stated that she felt disappointed when she left two weeks ago and she thinks about the words that P. Cumpata mentioned that 80% of economic growth comes from retaining businesses and helping the businesses you have in place grow. She is grateful for the Lopprino's working with the City and coming to a compromise and she is really happy about it.

Motion by M. Larson, second by M. Turner to adopt Ordinance 14-O-57 authorizing a lease agreement between the City of Woodstock and KATLO Inc. for restaurant space in the lower level of the Old Courthouse.

Jeff Gillaspie, 421 Farm Trail, Woodstock, stated that he thinks they have a proven winner in the Lopprino's. He stated that they are a couple that has truly invested in the community and have helped support other businesses grow noting the charitable work they have done over the years. He stated that as a taxpayer he's excited and believes that moving into larger space and allowing them to do bigger things is a proven winner for the city.

A roll call vote was taken. Ayes: J. Dillon, M. Larson, Mayor Sager, J. Starzynski, RB Thompson, M. Turner. Nays: None. Absentees: M. Saladin. Abstentions: None. Motion carried.

Kathryn Lopprino, 668 W. South St, Woodstock, thanked Council and specifically M. Larson and M. Turner. She appreciated their concerns from last meeting noting that they are just as thrilled with this new lease agreement. She thanked the retailers who showed up in support of their move and growth on the Square. She stated that they are aiming for before Thanksgiving.

Mayor Sager expressed sincere appreciation for their investment and referenced P. Cumpata's statement that one of the most important things the City can do for economic development is to support our current businesses to help them grow.

M. Saladin returned to Chambers at 8:00 p.m.

DISCUSSION ITEMS:

1. Reimbursement Request – La Petite Creperie

Kathy Cappas, 21017 N. Crestview Dr., Barrington, owner of La Petite Creperie and John Busse, 517 Larkins, North Barrington, employee working with La Petite Creperie.

J. Busse stated that with the Loprino's lease there was a big hesitation of what happens if the building goes to another party, what happens if the building is given away and what is the respect of the investments of the current tenant in the building. He stated that this is exactly what the focus of background conversation and what was discussed between last meeting and this one. He thinks that this is an exact parallel noting that the Loprino's in the prior meeting discussed that they would be investing \$200,000-\$250,000 and there concern about protection. He stated that today they are talking about a much smaller amount that K. Cappas has invested and her genesis for the reason that she is here today is simply that with the introduction of the initiative the building that she is in could be given without regard to her investments and could be given to another party based on a super majority of the Council.

J. Busse stated that this is an identical prescription of what was just discussed which is you have an existing tenant who is concerned with the investments they have made and the loss of those investments in the event that the City moves in a direction to seek another owner for the building. He stated that had they been awarded the building through the RFP they wouldn't have this conversation, but because the building may go elsewhere the issue of investment protection has been addressed noting that they took a different tactic of pursuing reimbursement. He thinks that the same clause that was given to the Loprino's, might exactly apply here which is that there might be compensation for tenant investments should the landlord ship off the building. He noted that it is almost a moral hazard to support one buy-out protection plan and pass on the other.

Mayor Sager stated that there are some distinctions noting that one of the primary distinctions is that the City is currently the land owner of the property and at the time the improvements were made the City was not the landlord of the property at the time; K. Cappas affirmed. He stated that the investment she made were in agreement with the previous landlord with the building; K. Cappas affirmed. Mayor Sager stated that in consideration for that she had a reduced rental rate to partially offset those particular expenditures.

K. Cappas stated that the rent has always been what it was and they never agreed to a lower rent for her expenditures. Mayor Sager questioned if the rent for the facility has always been \$850 and K. Cappas advised that it was twice that amount for a number of years as well going to the Ganshaw's and going to Scott Barash. Mayor Sager reiterated that it was twice that and then questioned if was reduced to \$850. K. Cappas stated that there was no longer a lease and she was getting no response from the Ganshaw's or the Barash's so she reduced it back to the \$850. Mayor Sager questioned what she based the reduction on and K. Cappas stated that she was getting no response from either party for problems with the building and she continually had to invest money into the building to ensure the survival of La Petite Creperie. Mayor Sager questioned if she reduced the amount in order to partially compensate herself for some of the investment she made and K. Cappas affirmed.

M. Turner stated that the reduction happened prior to the City taking ownership and K. Cappas affirmed. M. Turner stated that the City honored that rent going forward and K. Cappas affirmed.

Mayor Sager stated that he has tremendous respect for her investment and they are happy that she is there and hope that it will be a long standing relationship with the municipality. He stated that he wants to make sure that everyone is considering the same elements. He reported that her request is for consideration of \$137,435 and the request is that she be reimbursed by the City of Woodstock for that amount of expenses for capital improvements to the building specifically to replace the building

AC and install the front patio. He noted that she further states that it does not include the restaurant build-out costs, coolers, hoods, etc, although she is unclear if the City presumes itself the owner of those assets. He stated that it is specifically for \$137,435 in reimbursement, K. Cappas affirmed.

J. Busse stated that they are consistent numbers noting that a restaurant build-out does have all of these necessities such as appliances and there is some uncertainty about those. He stated that the lease La Petite has with the City doesn't speak to the issue of such improvements. He stated that they should either clarify it or the presumption is that the restaurant appliances would be the property of the restaurant owner. He reported La Petite did purchase from the Teahouse for \$50,000 their possessions; so there is precedent that on the transference of that business that the next tenant gave consideration to the prior for the goods. He stated that they aren't talking about the restaurant goods, but more about the patio, the roof and the AC unit; things the tenant shouldn't really tackle.

Mayor Sager quoted from their lease with the previous landlord, "it is the intent of landlord and the tenant that this lease should be fully net to the landlord provided that the tenant shall not be not responsible for costs and expenses expressly excluded by the terms of this lease and including but not limited to the following: a)mortgage payments of capital or interest on any mortgage affecting the lease premises, b)any income taxes to the landlord except to the extent that such income taxes are imposed in lieu of real property taxes, c)any ground rental, d) any structural repairs or replacements and e)any expenditures with respect to the lease premises which are of a capital nature.

J. Busse stated that he would expect that these are the same terms as the Lopprino's. M. Turner stated that he wants to separate the Lopprino thing from everything else. He stated that they want to be equitable to everyone that comes before Council, but that doesn't mean equal. He stated that this isn't judicial and there isn't a concept of precedence. He reiterated that Council wants to be fair, but it is hard for them to justify publically when in black and white there is an agreement that has existed for multiple years and they are asking Council to change it on its face with no negotiation and hand over \$137,000 of the City's money. He stated that Council recognizes the inherent value of the Creperie; it is an icon on the Square. He stated that every resident of the city is going to hold Council to the black and white that exists and ask how the City can divest itself of \$137,000.

J. Busse understands and advised that there may be a more appropriate solution along the lines of what the City has proposed back which is simply should the City give the building to another party, things like K. Cappas' investment in the patio should be given some weight since it enhances the value of whatever the City is selling. He feels they may have come across in an approach that was unfamiliar with the way that the City chose to handle the same question two weeks ago.

Mayor Sager stated that the question is whether or not the City is obligated to reimburse for the capital investments of \$137,435 per their request. He asked for the City Attorney's legal opinion.

R. Schlossberg stated that reimbursement of money spent before the City acquired the Courthouse is not an obligation of the City. She stated that the City acquired the Courthouse in a foreclosure proceeding and part of the whole process and the reason to do it is because everyone was given notice of the proceeding in the hopes that the court can get as many recorded claims as possible on record so they can be considered and any subordinate claims that are adjudicated are wiped out. She advised that when the City acquired the Courthouse, it took it subject to no additional recorded liens except for the taxes which were settled in a separate process. She noted that the City took it free and clear and at that point the City did enter into a new lease with the Creperie.

Mayor Sager advised that there was an opportunity to ascertain any objections or claims through the normal proceedings of the court and they chose not to do that so that is the foundation of no legal obligation for the municipality to reimburse the amount of money per the request that is on the table. J. Busse affirmed and stated that there is no legal obligation, just as this arrangement about protecting the investments of another tenant.

Mayor Sager stated that they are talking about reimbursement versus protection noting that the request on the table from them was for reimbursement noting that they have established that there is no legal obligation for the City to do that and they acknowledged that there is no obligation for the municipality to do that with the taxpayer's money. He stated that they now have the opportunity to rescind that request for reimbursement.

J. Busse stated that he thinks the term reimbursement is still applicable, but need to specify time. He questioned if they could say "reimbursement upon transference of the building to another lease holder." He stated that it is reimbursement the same as other tenants would seek protection for their investments. He stated that they don't mean to impair the City for money especially when they haven't finished the RFP. He reported that the reason there were no claims because there was no eminent transference of the property; she was a happy tenant. He advised that all of the sudden the conversation was that someone else could be the owner at which time K. Cappas asked about her investments and it became clear that they aren't legally protected. He stated that they understand that there isn't a legal obligation but there is only business retention.

Mayor Sager stated that the request on the table is "La Petite formally requests the City of Woodstock as building owner to reimburse \$137,435 of building expenses made by the tenant La Petite Creperie and Bistro." He stated that if that is the request it is a hugely difficult request to consider and approve because there is no legal obligation for the City to do that. He advised that if that request was not here and their request was for should the municipality at a time determine that it is going to sell it due to the appropriate RFP process that there be given due consideration to that agreement so that La Petite could be properly "reimbursed" for some of the capital investments. Mayor Sager questioned if that is an important nuance and R. Schlossberg stated that it is and noted that they don't have the strict legal authority to reimburse for things that the City doesn't owe money for but they can negotiate leases for the City's buildings going forward.

M. Saladin stated that he appreciates the business and the improvement K. Cappas put in to make it a great place to go and eat. He agrees with the Mayor that the specific request to ask the City to reimburse her that money when she had two opportunities to bring it up. He questioned if she put the improvements in with a prior landlord and there was never an understanding with respect to recouping those costs with that landlord at that time, K. Cappas affirmed. He stated that she then entered into a lease with the City and those improvements were there and she had a chance to ask the City to look at the lease and do something with the respect to the improvements; K. Cappas affirmed.

M. Saladin stated that he understands the equitable argument that they are making, but noted that the City is the landlord of the building currently and that equitable argument is to say in good faith that they did this and can the City help them out. He doesn't think legally the City has the right to do that. He advised that if they shift the argument to if the City does sell the building and has the potential to discuss something with a buyer or to enter into a new lease with them, it will be appropriate at that time to have that discussion. He stated that there may be a way to look at this without telling the taxpayers to reimburse her because she put these things in during a prior ownership of the building when the City wasn't involved.

Mayor Sager agreed and stated that he is willing to enter into a dialog or discussion about the latter, but he would find it difficult to consider reimbursement by the municipality and the residents. K. Cappas advised that she understands and reported that she did start these conversations about a year ago and she felt like she got pushed back by everyone which is why they went this approach for the reimbursement. She stated that she expressed a year ago, and then six months ago her concerns but no conversation ever evolved from it.

In response to RB Thompson, K. Cappas stated that she met with Roscoe, Nancy, Donovan, Cort and Mayor Sager. She stated that she felt like she was getting no one asking how they could work with her to make it work so she went with another direction.

Mayor Sager stated that there was an email stating that the City wants to try to work with her and it is their hope that they would be able to come to some type of approach that would allow her to grow and prosper in that location. He apologized for whatever miscommunication there might have been and reiterated that one of the single important things we can do for economic growth and development is support the businesses that are currently vested in the community. He stated that she has invested in the community and she has placed an iconic restaurant on the Square so there is a desire for all of us as we move forward within the limitation that Council has to work and the responsibilities they have to continue to support her. He doesn't object at all to doing a similar type of thing with "due consideration" should the City come to that point where there is an RFP that comes forward and they decide that is the direction they are going.

K. Cappas stated that she is trying to survive and noted that all of her working capital is tied up in a piece of real estate she doesn't own. She noted that she has noticed on the Square that lunches are good but the dinner business has changed; it has decreased except when there are events. She advised that there is a change on the Square and it reflects in her business as well.

J. Busse stated that he hopes that they can amicably appreciate that had they not come forward with what seems like an awkward motion they would not have had this conversation. He stated that an RFP that could potentially be great would come in and this easily could have not been addressed and K. Cappas' interests could have been unrecognized as something to be considered. Mayor Sager respectfully disagreed and stated that they could have made that very request and stated that the process and discussion has taken then in that.

J. Busse asked if it would be a good idea to re-examine the lease rather than saying in the future when they get to the RFP when it comes. He questioned if some they should include some language in the lease noting that the lease is on an automatic renewal. M. Turner stated that as a party to lease they have the right to ask them as the landlord and noted that her tenancy to the City is important He stated that it's not the \$850 a month; it is who they are as an organization. He stated that if they want to put something on the table then administratively work through Staff. He stated that short of turning over \$137,000 that they aren't able to do, don't have the money to do and are not obligated to do legally, if they want to talk about needs they have as the City's customer then he is supportive of that as well as the direction the Mayor is going with due consideration.

Mayor Sager stated that although it hasn't been as timely the City is trying to make the improvements to the facility like the front steps. He stated that City knows they have issues and concerns about the windows and those are things as a municipality and landlord do want to address and are willing to work with them to address. He questioned, without objection from Council, that if they want to negotiate as we moved forward with the rental lease renewal document. J. Busse believes it is an accomplishment of this evening and they will do that. He referenced the \$850 rent and stated that

although the building looks large for the rent paid, it is important to know that the Creperie uses 1/3 of the building with 2/3 being unusable and the Creperie heats 3/3 of the building which has parts that are not insulated. He stated that it is a tremendous impact that relates to the rent. M. Turner stated that perhaps since it is preserving a building that the City owns and is looking to sell, they should open a discussion on that particular item. J. Busse stated that he just wanted the public to think they are getting a tremendous value on their rent; it is a difficult space.

Mayor Sager stated that whenever you re-enter into negotiations for a lease everything comes becomes on the table so he doesn't believe they are here tonight to preclude anything. He asked if their request is withdrawn and K. Cappas and J. Busse both stated that it is withdrawn and J. Busse noted that it is withdrawn as stated and they will go in another direction.

Mayor Sager stated that the request, "La Petite formally requests the City of Woodstock as building owner to reimburse \$137,435 of building expenses made by the tenant La Petite Creperie and Bistro" is officially withdrawn. K. Cappas and J. Busse affirmed that it is correct. Mayor Sager stated that Council has a proposed direction for attention as they look at the lease moving forward and Council conceded. Mayor Sager thanked them for their ongoing investment and advised that Council is hopeful that they might be able to come to a managed approach of due consideration should the City move forward with a specific purchase through the RFP process and through the lease arrangements.

2. Quarterly Reports – Transmittal of the following First Quarter Financial Reports for the City of Woodstock:
 - a.) Quarterly Revenues and Expenditures
 - b.) Quarterly Investment Report

FUTURE AGENDA ITEMS

Mayor Sager wants to discuss having another workshop to discuss marketing and economic development. He asked Council if they want to have two separate dates. M. Saladin suggested having the same day but have the discussions at different times. Mayor Sager advised that they will discuss dates and times at the next meeting.

ADJOURNMENT:

Motion by M. Turner, second by M. Saladin, to adjourn the regular meeting of the City Council to the September 16, 2014 City Council meeting. Ayes: J. Dillon, M. Larson, Mayor Sager, M. Saladin, J. Starzynski, RB Thompson, M. Turner. Nays: None. Absentees: None. Abstentions: None. Motion carried.

Meeting adjourned at 8:39 PM.

Respectfully submitted,

Dianne Mitchell - City Clerk