

MINUTES
WOODSTOCK CITY COUNCIL
May 5, 2015
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, May 5, 2015 in Council Chambers at City Hall. Mayor Sager explained the irregular meeting process that involves calling two different City Councils to order and noted that the swearing in ceremony will take place as well. He then explained the consent calendar process and invited public participation.

A roll call was taken.

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

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: City Manager Roscoe Stelford, City Attorney Ruth Schlossberg, Finance Director Paul Christensen, Public Works Director Paul Ruscko, Economic Development Director Cort Carlson, Planning and Zoning Director Joe Napolitano, Chief of Police Robert Lowen, IT Manager Dan McElmeel, Planning and Zoning Administrator Jim Kastner.

OTHERS PRESENT: Chief Deputy City Clerk Cindy Smiley

C. Smiley affirmed that the Agenda before Council is a true and accurate presentation of the published agenda.

Mayor Sager noted that Economic Development Director Cort Carlson has tendered his resignation and accepted a position as the Director of the Aurora Visitors' and Convention Bureau. Mayor Sager expressed appreciation to Mr. Carlson for his efforts to promote economic development in Woodstock. He further noted that Planning and Zoning Director Joe Napolitano will assume the duties of Economic Development Director until such time as a new Director has been hired for that position.

CONSENT AGENDA

Mayor Sager noted that it is his intent to remove Item B from the Consent Agenda which would result in only item A remaining.

Motion by M. Turner, second by M. Saladin to dissolve the first Consent Agenda. A roll call vote was taken. Ayes: J. Dillon, M. Larson, M. Saladin, J. Starzynski, RB Thompson, M. Turner, and Mayor Sager. Motion carried unanimously

A. Minutes of Previous Meetings:
April 21, 2015 Regular Meeting

Motion by J. Dillon, second by M. Larson, to approve the minutes of the April 21, 2015 Regular City Council meeting as presented. Ayes: RB Thompson, M. Larson, J. Dillon, M. Saladin, M. Turner, Mayor Sager. Nays: None. Absentees: None. Abstentions: None. Motion carried unanimously.

B. Train Lease Agreement

Mayor Sager stated that, to date, it has been the City's intent in discussions with Union Pacific Representatives, Mr. Hart and the City Attorneys to:

- First and foremost, protect the City by following all prescribed State and Local Laws; and
- Identify a positive, constructive and mutually-beneficial resolution

He further stated that in order to continue the discussions and forward those two important goals, the City Attorney has recommended adoption of an ordinance directing and authorizing negotiations and execution, as appropriate, of a termination, modification, extension and/or clarified rental rate for the Train Station Lease Agreement between Centerville Station, LLC and the City, provided that no liability or increased cost accrues to the City' otherwise identified as Document 1.

Mayor Sager then stated that Councilman Starzynski has suggested that Section 1 be amended to include Councilman Saladin as an active participant in the process and, further, that Councilman Saladin has agreed to participate at Council's direction. This would mean that Section 1 would read, *"The City Manager, Mayor, and Councilman Saladin are hereby directed to oversee the negotiation and execution, as appropriate, of the termination, modification, extension and/or clarified rental rate for the train station sublease agreement between Centerville Station, LLC and the City, provided that no liability or increased cost accrues to the City."*

Mayor Sager concurred with Councilman Starzynski's recommendation and thanked both Councilman Starzynski and Councilman Saladin.

There were no further comments from Council or the Public.

Council concurred with amending Document 1 accordingly on its face. Mayor Sager noted that Document 1 is, therefore, so amended to include Councilman Saladin as part of the process therein described.

Motion by M. Turner, second by J. Starzynski to approve Ordinance No. 15-O-29 , identified as Document No. 1, An Ordinance directing and authorizing negotiation and execution, as appropriate, of a termination, modification, extension, and/or clarified rental rate for the Train Station Lease Agreement between Centerville Station, LLC and the City of Woodstock provided that no liability or increased cost accrues to the City.

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

ADJOURN SINE DIE

Mayor Sager noted that the next order of business is to adjourn this body Sine Die which means that it will be no longer active as the new Council will be sworn in. He thanked outgoing Councilwoman Julie Dillon nothing that she has done an outstanding job of service to this body and the city of Woodstock. He expressed his gratitude for her strong and devoted efforts, noting that she made sure she was informed on each issue coming before her. He also expressed thanks to her family for the time that she devoted which took her away from them.

Councilwoman Dillon stated that it had been an honor and a privilege to serve.

Motion by J. Dillon, second by RB Thompson, to adjourn this body Sine Die, at 7:16PM on Tuesday, May 5, 2015. Ayes: J. Dillon, M. Larson, M. Saladin, J. Starzynski, RB Thompson, M. Turner, and Mayor Sager. Nays: None. Abstentions: None. Absentees: None. Motion carried unanimously.

ADMINISTRATION OF OATH TO NEW CITY COUNCIL MEMBERS

Mayor Sager noted that newly-elected councilmember Dan Hart could not be in attendance and will be sworn in at the May 19, 2015 meeting.

City Attorney Ruth Schlossberg administered the Oath of Office to Councilwoman Maureen Larson.

City Attorney Ruth Schlossberg administered the Oath of Office to Councilman Mark Saladin.

Mayor Sager congratulated Councilwoman Larson and Councilman Saladin on their past service and their willingness to continue to serve and offered them his best wishes.

CALL TO ORDER

The regular meeting of the Woodstock City Council was called to order by Mayor Brian Sager at 7:22PM on Tuesday, May 5, 2015 in the Council Chambers at City Hall.

A roll call was taken.

COUNCIL MEMBERS PRESENT: RB Thompson, Joseph Starzynski, Maureen Larson, Mark Saladin, Michael Turner, and Mayor Saladin

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: City Manager Roscoe Stelford, City Attorney Ruth Schlossberg, Finance Director Paul Christensen, Public Works Director Paul Ruscko, Economic Development Director Cort Carlson, Planning and Zoning Director Joe Napolitano, Chief of Police Robert Lowen, IT Manager Dan McElmeel, Planning and Zoning Administrator Jim Kastner.

OTHERS PRESENT: Chief Deputy City Clerk Cindy Smiley

A. FLOOR DISCUSSION

National Police Week

Mayor Sager stated that it is important to recognize those individuals who serve with dedication to uphold the safety and welfare of our residence. He welcomed the members of the Woodstock Police Department present and thanked them for their service to ensure a sense of safety and well-being to the community.

Mayor Sager invited Police Chief Robert Lowen to the podium and presented him with a Proclamation declaring May 11th – 17th to be National Police Week in the City of Woodstock.

Chief Lowen stated he was honored to accept the proclamation on behalf of the Woodstock Police Department commending the department as he did so.

National Public Works Week

Mayor Sager stated that the Public Works employees are available 24/7, 365 days per year to provide services to our residents which are often taken for granted, such as providing clean safe drinking water, proper transport and treatment of refuse, well-maintained streets, working fire hydrants, and snow removal among other things. He further noted that many times, Public Works employees work long hours to provide these services.

Mayor Sager invited Public Works Director Paul Ruscko to the podium and presented him with a Proclamation declaring May 17th – 23rd to be National Public Works Week in the City of Woodstock.

P. Ruscko thanked the Council on behalf of the Department of Public Works, stating that the employees of that department take great pride in their work and sacrifice their time for the community to be available 24/7 to provide a better quality of life for the residents.

Public Comment

In anticipation of Public Comment, Mayor Sager prefaced this by stating that there are many opportunities for businesses to open in the City of Woodstock which exist because in the United States the opportunity exists for a free market enterprise system. He noted, however, that in a non-Home Rule community, which Woodstock is, the municipal government must abide by the laws of the State of Illinois, with the State being the ultimate power and authority. He did note that the State passes certain rights and authority on to the municipality such as police protection, water provision, etc. and that the State also visits different regulatory authority upon different levels of government.

He further stated that the State exerts greater control on non-Home Rule communities on many issues with their interest being balancing issues of zoning considerations of the local government with the free market enterprise system.

He continued stating that when the City was presented with this business, it worked diligently to find a legal opportunity which would provide the City with greater control. He noted that the City does have stricter controls than many other communities in McHenry County but that even those controls did not enable the City to stop the business. Consequently, the City has been working with the business owner on a variety of issues including signage, the business display, and the window display. He stated that the window display is felt by many to be inappropriate and that he has asked the business owner to modify the window, with the owner replying that he wished to wait until after the Council meeting to gauge the level of public concern and then he will work on modifications.

M. Turner stated that this is not something that the City took lightly, noting that the City began to take steps in February in an attempt to find a legal remedy to prevent the business from opening. He stated that the City was very serious about trying to find ways to prevent this business from opening at that location.

He further noted that, because the business was opening in an area with proper zoning, Council approval was not needed. Even so, he stated that the City went through exhaustive discussions to do everything within the bounds of the law.

Julia Crenshaw, 1501 Moraine Court, Woodstock, stated she has read the letters between the two parties and understands that it was determined that the City could not legally stop this business (R Boutique) from opening. Still, she says she has concerns about the store front. She cited portions of the Unified Development Ordinance (UDO) concerning adult use which she feels supports her concerns. She is concerned that the items in the window display and those that can be seen through the door can be seen by minors. She suggested that the front window be required to follow the UDO and that the door be covered and shut.

Ms. Crenshaw stated she is pleased to see that the Council is already addressing these issues and that the owner is amenable and hopes that these issues can come to a positive conclusion.

Mayor Sager noted that there is a legal distinction between an adult use facility and a retail facility.

Allen Stebbins, 508 Dean Street, Woodstock, stated he feels the Mayor's arguments are weak at best. He asked why the business owner did not locate in another community and what makes Woodstock attractive to this type of business. Mr. Stebbins suggested that the City provide a zoned area where adult businesses can locate but exclude them from other zoning districts, such as was done in the change made for the medical marijuana dispensary. He asked why the City is being reactive to this issue rather than being proactive with a change to the zoning ordinance. Mr. Stebbins continued stating that he has watched his property value drop and is angry about the decisions made by Council recently. He feels that economic development has turned around everywhere but in Woodstock and that the Council seems more concerned about the business owners than the homeowners.

Eileen Vogel, Woodstock, stated she moved to Woodstock three years ago because it is a family-oriented community. She is concerned about young people passing by this business and talked about children going to the Square and having to pass by this business. She feels that it is offensive, ugly, and "not Woodstock." She asked Council to do whatever can be done to stop the business from locating in Woodstock. She noted that she moved here from a Home Rule community and realizes that they have more power than a non-Home Rule community. She stated she would help in whatever way she can to help Woodstock attain Home Rule. She asked Council to think about what Woodstock will be like in three years, or ten years from now if this type of business is not stopped. Noting that Woodstock is a family community, she asked Council to do something for the sake of the families.

Mayor Sager noted in reply to Mr. Stebbins' question, the business owner indicated he was moving to Woodstock and is making it his home. He further stated that the City tried to encourage him to locate in another community.

Council Comments:

RB Thompson noted that it is Cinco de Mayo and wished the Hispanic community "Feliz Cinco de Mayo."

He also detailed for those present the festivities planned during the month of May for the Orson Welles Centennial Festival, noted that the Farmers Market is now open, that Fair Diddley will be coming up. He further noted that work is being completed on the stairs to the Sheriff's House.

M. Larson stated that her first reaction to the news that R Boutique was locating in Woodstock was the same as those who previously addressed the Council. She assured them that the City has traveled down every avenue to address this issue and has hit a brick wall at every turn. She asked City Attorney Ruth Schlossberg to describe those efforts and discuss the conversations she has had with Council and the Administration concerning the legalities of this issue so that they might understand the frustration that Council is feeling.

After a brief description of zoning, property rights, and constitutional issues, R. Schlossberg stated that certain businesses are permitted in certain zoned areas as permitted uses. Those businesses are allowed to open with no further approvals needed, pending building codes, etc. Other businesses may be allowed to locate in a zoning district as a special use if they meet the requirements and obtain a special use permit. These would include businesses who could work with the City to address any unique impact they would have on the neighborhood, traffic, etc.

Ms. Schlossberg continued by saying that in Woodstock Adult Uses are designated as special uses because the City wishes to control the negative impact they may have, but adult use must be defined. Adding to that, she stated that Constitutionally there is a large body of case law regarding free speech concerning adult uses. When the UDO was passed, the level of "adult use" items was set at 25% to conform to state law because, again, as a non-Home Rule community Woodstock is only allowed to regulate what is permitted by the state. Consequently, the business owner does not need to obtain any type of special use permit or permission to open his business as long as he abides by the 25% threshold. She further stated that if Woodstock was a Home Rule community, this 25% threshold could be lowered.

Ms. Schlossberg stated that she and her colleagues looked closely and this business did not fall into the "adult use" special use category because the majority of his "stock and trade" did not fall within the "adult use" definition. It was also noted that the business owner is very aware of the rules and has indicated that he will stay within the definition and understands that if he exceeds the 25%, he could fall within the "adult use" category. As long as he abides by the definition, the City does not have the authority to stop his business from opening.

Mayor Sager noted that, as a result of the legal roadblocks, the City has worked to try to develop a positive relationship with the business owner so that he will work with the City to address some of the concerns, such as the previously mentioned window.

Michael Stanard, Woodstock, stated that the best way to ensure that the business does not succeed is to not patronize it.

M. Saladin stated that Council was forced give serious consideration and weigh the desire to stop this business from locating with the expenditure of public funds that might be necessary to attempt this along with the expected outcome. He gave the example of the Village of Libertyville vs. Lovers Lane in which the Village expended many thousands of dollars but still lost in the end. In this case, there was a legal decision made. He stated that he is somewhat willing to take a risk but must be careful with public funds.

In response to a question from the public concerning monitoring, Mayor Sager stated that the City will continue to monitor the window display and the front door. This will be done administratively and asked Council members and the public to help. In addition, the business owner will be asked to provide sales reports to ensure that they are within the 25% range previously discussed.

In response to a question from the public concerning the on-line portion of the business, R. Stelford stated that the City looked at this issue very carefully to see if this segment of his business was going to take place at the Calhoun Street location, increasing the amount of sales that could fall within the “adult use” category. He stated that the internet business is not operated out of Woodstock in any way so is not included in the R Boutique business.

M. Turner noted that early in the process he took a strong stance, making sure that the business owner knew the City did not favor this venture. Mr. Turner obtained information and advice from highly-skilled legal counsel and the City’s highly-skilled staff on many occasions. The issue was taken to the point where it was obvious that the City would lose in Court, so the approach became to control what could be controlled. He indicated that the City will continue to take a strong stance but will not be foolish with tax dollars.

In response to various questions from the public in the audience, Mayor Sager stated that zoning laws can be changed once the City becomes Home Rule and that the zoning issue for the marijuana dispensary is a completely different issue. In addition, the City did look into the possibility of changing the zoning ordinance, but the business owner immediately began work on the building which created the issue of changing the zoning of a business already there. Also, R. Schlossberg stated that the City cannot use the 15% threshold used by the County because the state laws for counties and municipalities are different and the City must abide by the levels of authority granted to municipalities.

In response to a question from the public in the audience, R. Schlossberg stated that the business owner has not submitted another business plan subsequent to the negotiations with the City, noting that he is not required to submit a business plan as long as his business falls within a permitted use. She further noted that a business plan would not be required for a book store or a shoe store for example because they are permitted retail uses.

Ms. Schlossberg stated that she cannot emphasize enough that the City did not take this matter lightly and has done everything legally to address the issue, but that the business is a regular retail business until it violates the UDO and ceases to be a regular retail business.

M. Saladin noted there are a number of new projects on a horizon which can’t be discussed at present because of contracts in the works. He did note that the new Harley-Davidson and Porkies expansion are exciting and that the City expects businesses coming into the light industrial facilities that had been previously vacated.

In response to a question from the public in the audience concerning the definition of an “adult use” item, M. Turner stated this was analyzed. R. Schlossberg stated that there is a legal definition of adult use and lingerie does not fall within that definition.

Eileen Vogel, Woodstock, asked who will monitor the merchandise, stating that the store is not just selling lingerie. Mayor Sager indicated that the City is aware that there are other items sold but that as long as those items do not go over the 25% threshold, the City can do nothing and that lingerie does not count in that 25%. He further stated what is displayed and what is sold are two different things. R. Stelford stated that the City is working with the business owner to make sure that threshold is not exceeded.

In response to a question from the public in the audience, R. Schlossberg stated that the owner does not need a county permit.

A member of the public thanked the Council and the Administration for the steps that have been taken.

CONSENT AGENDA

Motion by M. Turner, second by M. Saladin, to concur with Consent Agenda Items B – D8.

In response to a question from J. Starzynski concerning item D5 – UDO Amendment – Harley Davidson – R. Stelford stated that the incentive agreement with Harley Davidson addresses signage. He further noted that HD wishes to have a sign in front of the store and maintain exposure of their brands. He directed Council to the packet for sign placement.

In response to a question from M. Saladin concerning Item D4 – UDO Amendment – Home Food Processing and Home Kitchens – C. Carlson stated that this amendment would take the need for a commercial kitchen out of the equation for a home kitchen but does not preclude it.

B. WARRANTS: 3661 3662 MFT 547

C. MINUTES AND REPORTS:

Economic Development Commission Minutes – January 13, 2015

Building Board of Construction Minutes – April 13, 2015

D. MANAGER'S REPORT NO. 45

1. Motor Fuel Tax for FY15/16 – Adoption of Resolution No. 15-R-14, identified as Document No. 2, appropriating \$677,000 of Motor Fuel Tax from May 1, 2015 through April 30, 2016 for maintenance of streets and highways.

2. Parking Ordinance – Adoption of Ordinance No. 14-O-30, identified as Document No. 3, approving a “No-Parking Place” along the South side of Kimball Avenue from the West Right-of-way line of Lake Avenue to a point 127’ to the West.

3. **Traffic Ordinances – Community Events** - Approval of the following:
 - a.) Ordinance No. 15-O-31, identified as Document No. 4, establishing temporary parking restrictions for the Girls on the Run 5K of Northwest Illinois on Sunday, May 17, 2015.
 - b.) Ordinance 15-O-32, identified as Document No. 5, establishing temporary traffic and parking restrictions for the annual Memorial Day parade and ceremony on Monday, May 25, 2015
 - c.) Ordinance No. 15-O-33, identified as Document No. 6, establishing temporary traffic and parking restrictions for D.C. Cobb’s Musicfest on Saturday, June 20, 2015 and Sunday, June 21, 2015.
 - d.) Ordinance No. 15-O-34, identified as Document No. 7, establishing temporary traffic and parking restrictions for the VFW Remember Our Heroes Car Show on Saturday, June 27, 2015.
 - e.) Ordinance No. 15-O-35, identified as Document No. 8, establishing certain temporary parking restrictions in and near Emricson Park on Saturday, July 4, 2015
 - f.) Ordinance No. 15-O-36, identified as Document No. 9, establishing certain temporary parking restrictions for the McHenry County Fair from Wednesday, August 5 thru Monday, August 10, 2015.

4. **UDO Amendment – Home Food Processing and Home Kitchens** – Adoption of Ordinance No. 15-O-37, identified as Document No. 10, amending Chapter 2, “Definitions” and Section 7B.3.3 “Home Occupations” of the Woodstock Unified Development Ordinance.

5. **UDO Amendment – Harley Davidson** – Adoption Ordinance No. 15-O-38, identified as Document No. 11, authorizing a variation of Section 13.8.2 of the City of Woodstock Unified Development Ordinance to allow two ground signs on the property at 2235 South Eastwood.

6. **Major Investigation Assistance Team Agreement** – Adoption of Resolution No. 15-R-15, identified as Document No. 12, approving a mutual aid agreement with the Major Investigation Assistance Team of McHenry County (MIAT).

7. **Award of Contract – Masonry Repairs** – Approval to waive the requirement for competitive bids and award of contract for masonry repairs at City Hall to Spitson Masonry, Inc. for the lump sum of \$28,000.

8. **Award of Contract -Software-** Approval of authorization to purchase the Civic Systems financial software package in the amount of \$67,000 to be paid over 3 years and to authorize the purchase of hardware and software upgrades estimated in the amount of \$6,000

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

EXECUTIVE SESSION

Motion by RB Thompson, second by M. Turner, to adjourn to Executive Session for the purpose of discussing:

Personnel (Open Meeting Act:5ILCS 120/2 (c)(1)

The appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body, including hearing testimony on a complaint lodged against an employee to determine its validity.

City Manager's Performance Evaluation

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

The Woodstock City Council adjourned to Executive Session at 8:47PM.

RETURN TO OPEN SESSION

The City Council returned to Open Session at 10:26PM.

COUNCIL MEMBERS PRESENT: Maureen Larson, Mark Saladin, Joseph Starzynski, RB Thompson, Michael Turner, and Mayor Sager.

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: City Manager Roscoe Stelford and City Attorney Ruth Schlossberg

OTHERS PRESENT: Chief Deputy Clerk Cindy Smiley

FUTURE AGENDA ITEMS

It was the Consensus of the Council that a discussion of the TAP be placed on the June 2, 2015 agenda.

ADJOURNMENT:

Motion by M. Saladin, second by M. Larson, to adjourn the regular meeting of the City Council to the City Council Workshop on May 15, 2015 at Stage Left Café. Ayes: M. Larson, M. Saladin, M. Turner, RB Thompson, J. Starzynski and Mayor Sager. Nays: None. Absentees: None. Abstentions: None. Motion carried.

Meeting adjourned at 10:32PM

Respectfully submitted,

Cindy Smiley
Chief Deputy Clerk