

**MINUTES  
CITY OF ST. CHARLES, IL  
PLANNING AND DEVELOPMENT COMMITTEE  
MONDAY, MARCH 14, 2016 7:00 P.M.**

**Members Present:** Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Turner, Krieger, Gaugel, Bessner, Lewis

**Members Absent:** None.

**Others Present:** Mark Koenen, City Administrator; Rita Tungare, Director of Community & Economic Development; Russell Colby, Planning Division Manager; Bob Vann, Building & Code Enforcement Division Manager; Matthew O'Rourke, Economic Development Manager; Chris Bong, Development Engineering Division Manager; Ellen Johnson, Planner; Fire Chief Schelstreet; Asst. Chief Christensen; Lt. Brian Byrne

**1. CALL TO ORDER**

The meeting was convened by Chairman Bancroft at 7:00 P.M.

**2. ROLL CALLED**

Roll was called:

Present: Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Turner, Gaugel, Krieger, Bessner, Lewis

Absent: None.

**3. COMMUNITY & ECONOMIC DEVELOPMENT**

- a. Presentation regarding Community Land Trusts and proposed exploratory process for creating a Community Land Trust.

Ms. Tungare said in 2014 Batavia, Geneva, North Aurora and St. Charles adopted the Homes for a Changing Region plan as a policy that would guide our affordable housing efforts; recognizing that our jurisdictional lines between the 4 communities are somewhat invisible when it comes to housing needs. She said the 4 communities are continuing to collaborate on implementation of the recommendations from this plan and one of the key recommendations is for the creation of a Community Land Trust between the 4 communities. She said the Community Land Trust could be a potential opportunity for the use of our housing trust funds to create affordable housing. She said since this is a new concept to the Fox Valley area, CMAP provided the technical assistance to the 4 communities on our homes plan and has assisted with connecting us with an expert who can serve as a consultant to guide us through this process-Betsy Lassar from Business and Professional People for the Public Interest (BPI) who has hands on experience in creating community land trust in Highland Park. She said the 4 communities have received a proposal from Ms. Lassar to conduct a 2 phased approach: 1-being a feasibility study to explore and understand, if and how, a community land trust will work for the Fox Valley and how to structure that to specifically meet

our needs, and the total cost of that phase is around \$12,000, which would be split equally amongst the 4 participating communities. She said if all 4 communities were to participate it would be approximately \$3,000 a piece, and if only 3 communities participated it would be split by \$4,000 each. She said procedurally phase 1 findings would be presented to City Council as well as the Housing Commission and then we would seek official approval to move forward with phase 2, which would be the actual creation of the Community Land Trust. She said she asks 2 things of Committee tonight; first that we all collectively listen and learn, we are learning side by side with the Council as well as the Housing Commission because this is isn't something staff has experience on. She said there are attendees present from some of the partnering communities as well as some Housing Commission members. She said her 2<sup>nd</sup> request is that staff be provided with direction as to whether phase 1 should be initiated. She said that the Housing Commission is keen to explore this concept further and they expressed strong support at their February meeting.

Betsy Lassar-1544 Sheraton Rd.-Highland Park-said she was delighted to be there tonight to discuss exploring the creation of a Community Land Trust (CLT). She then showed a PowerPoint Presentation which gave some background and context for BPI:

- A 47-year-old public interest law and policy center
- Strives to resolve compelling issues of social justice and quality of life in the Chicago region
- Housing and community development is a long-time focus area

She said they have worked with municipalities on a number of initiatives most recently in connection with vacant property issues as well as inclusionary zoning.

She said in terms of her own background she spent several years of her early career at BPI and returned a few years ago but before returning she spent several years working on affordable housing in Highland Park. She wore a number of volunteer and professional hats and had the privilege of working to develop and implement Highland Park's affordable housing plan which included establishing a CLT, which at the time was the first in Illinois. She said the organization they created is known as Community Partners for Affordable Housing (CPAH) and originally was Highland Park only but over the years has expanded its work beyond in neighboring communities of Lake Forest and Evanston and she thinks CPAH could be a useful model for this effort. She said since CPAH's inception they have about 75 permanently affordable homes in its inventory.

Ms. Lassar shared what a Traditional CLT is:

- A not-for-profit organization
- Acquires properties, then builds or rehabs affordable homes on the property
- Retains title to the underlying land
- Sells the improvements (the homes) at below-market prices to income-qualified buyers and leases them the underlying land for a nominal fee under a long-term (99-year) ground lease
- Ground lease governs use and resale
- At resale, home is sold back to CLT or to another income-qualified buyer at a formula price
- Formula price ensures fair return to homeowner and keeps home affordable to future buyers
- CLTs build a supply of permanently affordable homes for the community

Ms. Lassar walked through an example of an Acquisition & Rehab under CPAH's formulas.

Aldr. Gaugel asked what would happen in the event that the property value decreases. Ms. Lassar said they have seen a couple examples of that throughout the country during the downturn in the economy. She said an appraisal based formula such as the one CPAH uses buyers were actually cushioned in their loss because they did not bear the full value of the loss of market value, they just bore a fraction of it and In some cases they did not do too badly, CPAH didn't have a lot of resales during that time but there were a couple, but it's the exact same formula; there is no change, but that is really in the control of the CLT.

Ms. Lassar continued her PowerPoint presentation:

**CLT Variations:**

- More than 280 CLTs in 45 states and DC
- CLT can be a not-for-profit organization, a local government program, or a program of another not-for-profit
- Different legal mechanisms for controlling use and resale—e.g., ground lease, deed restriction
- Home ownership, rental, lease-to-purchase

**Trends:**

- Increased role of municipalities in initiating CLTs
- Expansion of CLT territory to multiple jurisdictions

**How CLTs Benefit Communities:**

- Provide housing for low- and moderate-income people
- Protect low- and moderate-income people from displacement in high cost or gentrifying areas
- Promote home ownership and wealth creation among lower income families
- Preserve existing housing stock and neighborhood character
- Establish and keep an inventory of housing that is affordable for future residents despite appreciating land values
- Maximize the value of the initial public investment by ensuring that the homes created continue to be affordable to succeeding buyers for many years without the investment of additional dollars beyond the original subsidy.

**Core CLT Principles:**

- Perpetual affordability—ensuring that CLT homes remain affordable for future generations of low- and moderate-income households.
- Stewardship—helping low- and moderate-income families succeed in maintaining and retaining their homes, monitoring and enforcing the conditions of eligibility and occupancy, and ensuring units remain affordable.
- Balanced structure of governance—A structure that represents and is accountable to the interests of CLT residents, residents of the CLT service area, and the larger community.

**Exploring the Creation of a CLT (which would take place in phase 1 of the exploratory study)- Key Questions:**

- What should be its mission/purpose?
- Who will it serve (what income levels)?
- What geographic area should it serve?
- What program activities will it undertake?
- What type of organizational entity will it be?
- Should it be a membership organization?
- How will it be governed?
- How will the start-up of the CLT be funded

**Exploring the Creation of a CLT**

Phase 1(If the communities decide to go forward) they would:

- Formation of Steering Committee
- Research and report
- Work through Key Questions
- Develop recommendations relating to Key Questions and Next Steps

Phase 2 (Based on Phase 1 Outcome. If decision made to go forward)

- Expand Steering Committee
- Engage a CLT practitioner consultant
- Take practical steps to establish a CLT

Aldr. Stellato thanked Ms. Lassar for her presentation and said the city has been a fan of some type of land trust and Council has been trying to figure out a way to do it, but a concern has always been the deed restriction; how do we keep the property affordable without violating some type of legal concern so he believes the ground lease makes a lot of sense. He said he has worked a lot with affordable housing, subsidized housing and IHDA, who all change formulas very rapidly and seeing as though CPAH has control of this formula, he asked how and how often is it adjusted. Ms. Lassar said that CPAH has had the same formula since conception; it is very rare for CLT's to change their re-sale formulas. She said CPAH has actually talked about doing a re-evaluation of its re-sale formula, but that would be done very carefully and there would be a lot of notice because that would apply across the board to all of the CPAH sales, but it has not been changed in 13 years. Aldr. Stellato asked if they do that by keeping up with market conditions and how prices go up and down. Ms. Lassar said they talked at different stages about re-evaluating it, particularly the downturn, but they did not do it, and now that the market is rebounding they are satisfied with the formula, but that is an issue that can be explored as part of the research in looking at how other CLT's handle that. Aldr. Stellato said he is encouraged by the board of directors being made up of people who actually live there; he feels that's very important.

Aldr. Lemke asked if the buyer would be making 60% in interest in the purchase price in the example from the presentation. Ms. Lassar said yes, in the example shared, but sometimes the buyer's interest can be greater or even less, it depends on the total development cost and what is the targeted income level that the organization wants to serve. She said a number of the funding sources from which the organization would be raising subsidies have their own income requirements which would always trump the CLT goals. Aldr. Lemke noted that in the example

the homeowner investment ratio was 60% and he asked if that means the appreciation attributes to the owners improvements in the capital decision to buy something else. Ms. Lassar said the owner doesn't realize the full share of appreciation that's attributable to the owner's initial investment, that's where the shared appreciation factor comes in; the owner is able to realize a portion of that appreciation. Aldr. Lemke asked if that means automatically in each case it would be the same formula. Ms. Lassar said the CLT formula would apply to all of the CLT sales; they do not change formulas unless the entire formula is changed. She said there is great variation in the types of resale formulas; some are indexed to the CPI or to some other index, as well as other median area income; there are different ways to do it and the shared appreciation factor varies depending on the market. Aldr. Lemke asked if the formula would be worked out between the 4 communities. Ms. Lassar said yes and that would be key component of phase 2.

Aldr. Lemke said one thing that strikes him is in regard to the base to keep a certain percentage affordable housing and he wondered if there is part of the setting to state what was found in the 4 communities or is that more based on the broad brush if we take 4-5 counties together. Ms. Lassar said she doesn't think that would play into the phase 1 feasibility study but if a CLT is formed they could then establish what their goals might be, but it wouldn't be part of the exploratory study. Aldr. Lemke said he struggles because the city used to have their own independent calculations which determined a nice base of affordable housing and then all of the sudden a number is being implied on us that really doesn't make sense to us and it would be helpful for him to have that information.

Aldr. Krieger asked if there were any age restrictions, do you have to be married, can you be a single person. Ms. Lassar said that is really up to the CLT to develop resident selection criteria which would be in compliance with the fair housing laws.

Aldr. Gaugel asked if the financing for the potential property owner is done through CPAH. Ms. Lassar said not the financing for the CPAH buyer; the homebuyer goes out and gets a mortgage. Aldr. Gaugel asked what obstacles the land trust vehicle plays into that process, because the person moving in doesn't assume the full value of the property and he wondered if that has presented problems in the past. Ms. Lassar said normally the lender has a very favorable loan to value ratio because the subsidy is contributed up front and what land trusts typically do, because it's a unique model, lenders need to understand the model, so land trusts do a lot of ground work to meet with lenders to explain the program. She said CPAH has not had any problems with their buyers getting mortgages but there are a handful of banks that have been making mortgages to CPAH from the beginning and they have continued to do that. Aldr. Gaugel said in regard to the example shared the tax bill would probably be somewhere between \$8,000-\$10,000 and he wondered if assistance would be offered to the homeowners for that. Ms. Lassar said the CLT homeowner pays property taxes but because it's a resale restricted property the value is determined by a formula, not by the market, so CLT's typically enter into an arrangement with their local accessors. So just like there is outreach to the banks there is also outreach to the local accessor to explain the model and resale restrictions. She said the accessor's office would do that by: 1) Valuing the property at the net sales price to the buyer; 2) Basing the taxes on the maximum amount they could realize at the sale under the resale formula, and 3) Determining the value of the underlying land.

Aldr. Bessner said if enacted, how a CLT would integrate with the Housing Commission and/or the Housing Ordinance, in addition to other towns that would be involved. Ms. Lassar said that would be explored as part of phase 1 in looking at what kind of organizational structure this entity

should have and what would be the role of the local governments with the organization. She said whatever form the CLT would take it would be a major partner in helping municipalities to meet their affordable housing objectives.

Aldr. Bessner referred to the example in regard to the lease that if the home is sold after 10 years, does that lease renew to a 99 year lease or does it start losing years. Ms. Lassar said it depends, it could be done either way, but she thinks most communities have start new with a new sale. Aldr. Bessner asked if there is monitoring in lack of upkeep on a home. Ms. Lassar said that is decision that the CLT makes in terms of how often they want to do inspections, but usually the ground lease gives the CLT the right to inspect and to drive around and keep an eye on those properties and if there seems to be a problem they could step in.

Aldr. Lewis said in terms of this helping people that cannot afford to live in their homes anymore, do they physically have to move out of their home into another home, or can the CLT rebuy that land they are currently in. Ms. Lassar said that could work and it would depend on the situation and she is sure there are examples of exactly that, but typically they would leave and move somewhere else, because most times they would be living in a home that would not be affordable for the CLT to acquire because most people find themselves in need of affordable housing due to an illness or a job loss. Aldr. Lewis said she was thinking more in terms of old people who are living on fixed incomes. Ms. Lassar said a lot of time they may be able to get more for their homes based on appreciation and how long they have lived in it; they may prefer to sell to a private buyer than to the CLT, but that could be decision that the local CLT would make, it's just a matter of the economics.

Aldr. Lewis asked how many members would be on a local CLT board. Ms. Lassar said it depends; you definitely want it to be representative of the various constituencies in the community but not so big that it's too cumbersome and you cannot get work done.

Chairman Bancroft asked what the phase 1 deliverable is and does that scope change depending on how many communities are involved. Ms. Lassar said the deliverable will be the deliverable regardless of the number of the communities; there would be a report presented to the steering committee, but the outcome would be a set of recommendations from the steering committee to the local governing bodies. She said if the recommendation were to proceed, that would include the organizational framework of the CLT based on the answers to the key questions so that it would set out the parameters to guide the formation of the CLT. She said it would also recommend next steps; it would come to each governing body in the form of a resolution that would be discussed within each participating community. Chairman Bancroft said organizing 4 municipalities presents a set of challenges, whereas if only 1 decided to go forward and already had infrastructure to go forward, he wonders whether that would really change what the steering committee looks like and would sort of move this process on a little faster. Ms. Lassar said if there were 1 community versus 3-4 communities it would change what the steering committee looks like because it would be looking to the single community for representation, but if there are several communities we would want representatives from each community. She suggested maybe having representation from the county or non-for profit housing organizations be part of the steering committee, regardless of the number of communities that participate.

John Glenn-Housing Commission member-asked regarding the example given, at the time of resale, why was the share of appreciation attributable to the owner's investment reduced by a

percentage. Ms. Lassar said the homeowner would not get the full amount because it would be impossible to keep the home affordable at resale, so there has to be some way of determining what portion of that amount will work in terms of being a fair return to the homeowner as well as meeting the community's goals to keep the homes affordable, and there would be research as to what would be the appropriate factor that balances those 2 key interests in a fair way. Chairman Bancroft said he appreciates the questions and he thinks the example in discussion has some assumptions of a hypothetical. He said if we were to go forward with a CLT, first thing would be the exploratory process, then the study, then the structure, then all the elements; so he is a little worried about getting bogged down into asking questions regarding a hypothetical that has no relation to what may be the eventual product once the governing structure is set up.

Vanessa Bell-Lasota-1610 Howard St.-asked what conditions in the community has preceded this call to action; has our affordable percentage been low because we have been meeting or exceeding the percentage of affordable housing year after year. Ms. Tungare said as indicated in her introductory remarks, the city had adopted a policy plan which was entitled Homes for a Changing Region study, which was a collaborative effort between the 4 communities. A key recommendation from the study was for the communities to explore a CLT to create affordable housing.

Ms. Bell-Lasota said regarding the property tax and approaching the accessors; if the property is taxed at a much lesser value or zero, where would those property taxes be made up for city services. She said what if someone moves in with 6 kids who use the school district and is paying no property taxes; she assumes something would have to be passed on somewhere along the way to homeowners in the city, and she wonders how much this will cost tax payers at a time where we are tightening our belts in so many way due to the state's need to cut 10% of our funds. She said she understands the value, but she would like to see a community improvement trust, much like the old Mid Valley Home Improvement, and we should be keeping seniors, singles and families in their homes. She said she lives in a mixed neighborhood where a lot housing stock for this would be found with homes ranging from \$150,000-\$500,000 and there are people moving in, renters of homes who cannot stay because they cannot afford the home upkeep. She said she would like to see more of a support system like a home equity program like Chicago has where grants are written for home repairs and upkeep to keep quality and character in the neighborhood and she is not sure the CLT is addressing all of that. Ms. Lassar said there would not be a \$0 property tax, the homeowner would pay property taxes, and it's a matter of assessing a home at the appropriate value and taking into consideration the restriction on resale and the fact that the homeowner will never be able to realize the full value of appreciation. Chairman Bancroft added that this is just one element of a to-be-created set of plans; we are just now deciding whether to move forward with the exploratory process.

Aldr. Stellato asked for clarification as to what amount for approval staff was looking for from Committee. Ms. Tungare said if we can split it with the other communities that would be great but if none of the others participate would we still be willing to move forward to spend the full \$12,000. Chairman Bancroft said in asking if this is something that the Committee is interested in, yes, we are interested, but in asking to spend \$3,000-\$12,000, he is more interested in how the other communities are going to come out on this. So he thinks before making a decision on what the study looks like, what we spend and what the scope of work looks like, we should figure out who's at the table and he would like to see a final result before agreeing to a number. Aldr. Turner

agreed and said since this may take a few months and this is a non-budgeted item it may roll into FY 2016/2017.

- b. Recommendation to approve Engineering Proposals for Prairie Center.
  - 1. Stormwater Report Review and Final Engineering Assistance by WBK Engineering
  - 2. Sanitary Sewer Evaluation by WBK Engineering
  - 3. Watermain Modeling by Trotter and Associates
  - 4. Traffic Impact Study by Hampton, Lenzini and Renwick

Mr. Bong said back in January, Shodeen presented the Prairie Center concept plan to the Committee. He said Shodeen is currently working on revised plans and the city has not yet received a formal application. He said Shodeen asked staff to independently collect some engineering study proposals, which was done. He said the contracts would be managed by city staff and the cost would be reimbursed by the developer, with the city requiring a full deposit.

Mr. Bong summarized the Stormwater Review & Final Engineering assistance by WBK.

Aldr. Payleitner asked if this was based on the current situation, because if we do not know what is going on there, how can we move forward. Mr. Bong said we do not know the exact layout yet, but we do have the concept plan and all the consultants based their proposals on that, and if the layout changes slightly, these are just general proposals to review whatever project comes along. Aldr. Payleitner wondered why this needs to be done ahead of time, before we know what's going to be there, if it changes a little she gets it, but if it changes a lot will this all have to be redone and will it be an added expense on the developer. Mr. Bong said staff wouldn't move forward on any of this until both the developer and the city were comfortable with it. Aldr. Payleitner said so they are basing their estimate on the cost of what we have and not the results. Mr. Bong said it's pretty clear what will need to be done and the layout wouldn't change things that dramatically for these proposals.

Aldr. Lemke said in regard to the ratio; they said there might be a demand for retail and initially the thought was for only half residential, and the impact of that may be on the water requirements, the sanitary sewer outflow and the traffic study; so it seemed to be uncertain to launch that. Mr. Bong said this wouldn't move forward until there is a submittal, and we are really collecting these proposals on behalf of the developer and would not move forward without their blessing.

Aldr. Stellato said in over 20 years he has never done this before and he questions why and what does this obligate us to. He said he understands the city is not obligated to pay the \$72,000, but we would be committing to put forth that money out of our budget, which would then be reimbursed by the developer, and unless the project is approved, we do not move forward; so he is not sure why, unless the developers are just looking for an idea of cost. He asked if staff was looking for a motion to approve the proposals at these numbers; and he wondered what happens after that. Mr. Bong said these are engineering study proposals so everything does not need to be completely laid out yet, and the developer asked staff to move forward to take a different approach than what was taken last time around, and they always wanted to find out what these scopes would be to come to an agreement as to what would be required.

Ms. Tungare said this is a little unusual, there is some history on this project, and it has a significant amount of visibility and interest from the community; last time this property was up for



consideration there was interest in modifying the scope of studies and analysis as it went through the public process. She said at that time there were questions as to whether the scope of those studies was comprehensive enough to address any impact that the project would have on the utilities or traffic, so this time she has chosen to take a different approach to be proactive and engage all the stakeholders in the establishment of the scope of any studies that will need to be conducted for this project. She said one could argue that we should wait until an application has been filed and a plan submitted to actually bring forward these proposals, and we could wait, but in communicating with the developer we thought it was prudent to at least initiate this process proactively to start gathering some base data. She said these studies could take anywhere from 3-4 months to conduct; for example, it would be nice to get some base traffic counts before schools close for the summer months, and the studies themselves will not be completed until a plan is received and we truly understand what the proportion of the land uses will be, because obviously the data could change based on whether it is residential or commercial and what proportions. She said the city would be fronting the studies and manage the consultants with the developer being completely responsible for reimbursing the city for any dollars spent which for that part of the process, that is not unusual. She said historically the city has managed traffic studies for projects and then are reimbursed by the developer, but what is unusual is that we are bringing forward proposals for Council approval ahead of having received applications. She said the other part is also procedural; anything above \$25,000 requires Council approval and since staff is managing the work, it is appropriate for staff to seek approval from that standpoint procedurally as well.

Aldr. Lewis said she is not sure she can jump on board with the change in the procedure without knowing the plan because the developer showed 2 different plans with complete different densities so we do not know which one they will finally submit and what the residential rate will be. She said she wondered if the costs will change depending on the density and that Committee asked the developer to come back with a plan with less apartments building to have lower density; so she is not sure why we are studying it at this level. Mr. Bong said these studies could be used for any of the 3 scenarios but all the studies will have different starting points with the current traffic counts starting now because that is really independent of the final layout of the site.

Chairman Bancroft said his view of this is that staff is trying to be transparent due to the history of this property to avoid questions of the past by stating here's what we are going to start looking at:

- City collecting a full deposit with staff not fronting any money, it will be a complete developer obligation.
- City will be the contracting party, not the developer, so these are our professionals.
- Providing the general level of scope from staff's standpoint.

He said doing a traffic study for one density versus another; we can talk about what the impact is, the analysis changes, but the raw traffic counts don't; so his discussions with staff and his view of this is that staff is trying to be transparent to state this is what we are thinking, give us comments because we are seeking approval, and judging from the reaction, we stop short of giving approval of these until there is an application pending. He said he feels the reaction from committee is "hey why are we doing this and what does this commits us to" and he doesn't think it commits us to doing anything.

Aldr. Turner said if we do these studies, all we are doing is finding out capacity; how much water can we pump in and out of there, how much traffic can we hold and does it hold 609 units, maybe it doesn't hold 609 units, which means maybe you can have 400 units with a certain amount of retail but no more; all we are doing is looking at capacity, not what's coming, but what can be

handled, which is good for everybody. Chairman Bancroft said nor are we passively accepting anybody's plan by virtue of looking at these scopes.

Aldr. Stellato asked if this would give staff more control. Ms. Tungare said definitely.

Aldr. Silkaitis said he is still not comfortable doing it this way, he doesn't see the point but if Committee goes along he would request getting the money up front. Ms. Tungare said the developer would be depositing the full upfront amount into a deferred revenue account before a contract is signed to initiate work. Aldr. Silkaitis said he still has a problem with doing anything before seeing a plan.

Aldr. Gaugel said if these costs all increase, his hesitation is not with the methodology, he thinks it's great we are out in front of it; his hesitation is with the potential for the cost to increase. He said the developer sent a nice letter that states "we do ask that this not be considered an open check book etc." so he wondered what the vehicle is to prevent the city from incurring additional costs that the developer won't. Mr. Bong said these are "not to exceed" contracts, so they would not be exceeded. Aldr. Gaugel said he would like to see that language clarified, and also realistically the amounts could end up less than the "not to exceed" amount, it's not a fixed amount. Mr. Bong said correct. Aldr. Gaugel asked what happens if one of these contractors comes back to say for what we are looking to have done it will cost an additional \$10,000. Ms. Tungare said an addendum to the proposal would be requested and then a conversation with the developer to be part of the decision, and if that addendum is significant enough where she needs to engage the Council, she would do so in the spirit of complete transparency. Aldr. Gaugel said what if the developer says no, would the study stop. Ms. Tungare said at that time we would use our professional judgement to determine if the additional works is necessitated or not for the Council and Plan Commission to have enough information to make an informed decision. She said if that is the case and there were a dispute between staff and the developer, she would then ask the developer to make that request to City Council as to whether they need relief from the work being done. Chairman Bancroft said in looking at something that has a number attached to it, circumstances happen, and say it's now 20% more and we get the developer who balks at giving us the full deposit, there is no work being done at the point, there is not money being fronted, nothing is happening. Mr. Bong said the consultants have instructions to not exceed that amount. Chairman Bancroft said but if there were more that would need to be done which would cost more money and we have another party disputing that, that would not come out of the city's pocket. Mr. Bong said no, that is not our intent.

Aldr. Lemke said it sounds like we give them an authorization to proceed if they came forward with a proposal to do more, but in terms of the traffic, he thinks it would be helpful to do a three dimensional analysis to look at the background of what's there now, what could be impacted by this development and to also realize there are other things that may happen along Rt. 38 that could impact traffic.

Mr. Bong asked if Committee wanted him to go through the 4 studies one-by-one. Committee agreed he didn't need to do that.

Mr. Koenen said St. Charles has always historically done these 4 studies, particularly for larger projects, but what is being seen tonight is different from the past because usually staff would not present items 1, 2 and 3 because they are all less than \$10,000; item 4 would have been presented

because it is more than \$25,000. He said in particular all 4 are being presented tonight is because we want to make sure people buy into the scope of services; that the studies are broad enough in their substance so the results that come back meet people needs so we are not playing catch up later in the process. He said we also want to get these processes started now because it's pretty clear based on conversations had with Shodeen that they will be submitting a preliminary plan for staff to review based on the concept plans submitted back in January. He said the timeliness of starting the traffic piece to get that foundational data is important to do before the school year closes to take that data and do it this spring while we have all the senior students driving rather than waiting till fall when we lose that piece of the population. He thinks by starting with this analysis now we collect the best data for traffic and allow staff to guide the consultants using their best judgement on developing that plan that makes sense based on the preliminary plan that's advanced shortly, and if that plan doesn't come in we will not get too much further in collecting base line data.

Aldr. Krieger said she agrees 100% on the traffic because it can be a real problem over there now and while this is a different approach she could agree to it just to have the base information.

Aldr. Stellato said he thinks it needs to be stated publicly that the perception is that he doesn't want to sound like this is a done deal. Aldr. Krieger said this is not in any way approving or disapproving any development on the property. Committee agreed.

Aldr. Bessner asked how the intersections would be determined for the traffic study because in the verbiage from the developer it stated that he didn't think certain intersections should be included. Mr. Bong said there are 13 intersections where a peak hour study is being done and the developer wanted to maybe not do all 13, but in his opinion we should go ahead and do all of them because we do not know exactly what the layout will be and all 13 of those intersections fall within the scope of the cost. He said there are also a few offsite Prairie St. intersections at 14<sup>th</sup>, 7<sup>th</sup> and 3<sup>rd</sup>, where a traffic signal warrant study which is a 13 hour study, and last time it was looked at whether they needed a signal, not necessarily that we would put one in, but just to do the analysis to see where we are. He said Brunidge Rd. is a mistake, he thinks they meant Bricher Rd.

Aldr. Lewis said she can accept the traffic study but she's not comfortable going forward with the other 2 proposals at this time, and she really wants to make herself clear that doing the traffic study in no way commits to building or not building something on this piece of property.

**Aldr. Turner made a motion to approve all 4 Engineering Proposals (Stormwater Report Review and Final Engineering Assistance by WBK Engineering, Sanitary Sewer Evaluation by WBK Engineering, Watermain Modeling by Trotter and Associates, Traffic Impact Study by Hampton, Lenzini and Renwick) for Prairie Center. Seconded by Aldr. Lemke.**

**Roll was called:**

**Present:** Stellato, Payleitner, Lemke, Turner, Krieger, Gaugel, Bessner

**Absent:**

**Nays:** Silkaitis, Lewis

**Abstain:**

**Motion Carried 7-2**

Aldr. Silkaitis clarified that before the traffic study is started the city would get the money from the developer first. Mr. Bong said correct. Chairman Bancroft said he knows this is out of the ordinary and he really applauds staff for the transparency on this one, he knows it takes a lot of work to get that done and he thanks them.

- c. Recommendation to approve and execute a release and reimbursement agreement between the City and 1500 Lincoln Highway LLC.

Mr. Bong said this is the future CVS site where the bank was just demolished on 14<sup>th</sup> and Lincoln Hwy. and joining the CVS there will be a smaller outlot commercial retail building right at the corner at 14<sup>th</sup> St. He said the building currently shows being 10 ft. away from the existing watermain that is in the right-of-way, and the City's engineering manual states its best to have it 20 ft. away; however going 20ft. away would create a physical hardship for the developer and the outlot would not be possible. He said there are 2 elements to the solution: 1-the Engineering element-to ask the developer to create a drop foundation to a lower vertical wall that would go down to the elevation of the watermain to keep the building from undermining and hold back the dirt. 2-The legal portion- which would be to ask for a release of reimbursement from the developer so that if there is ever any damage to the building or the watermain because of the location of the building, the city would be reimbursed and released from any liability, and tonight he is asking for approval of the legal portion of this and in his opinion 10ft. and 20ft. is a lot of room so we should be fine.

**Aldr. Stellato made a motion to approve and execute a release and reimbursement agreement between the City and 1500 Lincoln Highway LLC. Seconded by Aldr. Turner. Approved unanimously by voice vote. Motion carried. 9-0**

- d. Recommendation to approve a Downtown Economic Business Incentive Award for 320 W. Main Street (Two Wild Seeds Bakery).

Mr. O'Rourke said this property was formerly occupied by The Bend and since this is the first grant staff has brought forward to Committee based on the nature of how the program was designed, he then rehashed what was approved approximately a year ago. He said essentially it was a program to help new businesses coming to locate in town with build out assistance to help get them into vacant spaces, to help address the vacancy issues in downtown. He said there were some restrictions: the business had to be located in the SSA- 1B; the program does not receive funding from that district, but it does have a shared boundary because we look at that as the core of downtown. He said there are certain business uses that were incorporated in the program, mostly ones that generate pedestrian activity and had to be located on the first floor. He said there were also some restrictions on what type of improvements were eligible; things more permanent in nature and that will last with the unit beyond just the tenant we are working with at the time, so the unit is more marketable to future tenants. There were also 2 paths for approval included in the original program description: tier 1 is for grants that are \$10,000 less, and that is what the city matches up to, and tier 2, grants above that amount up to \$25,000 must come before Committee as this one is tonight. He said we have worked with 4 other businesses to receive grants this year and all were at or below the \$10,000 tier 1 limit, so they did not come before Committee. He said the grant tonight is for \$28,445, with the city's share being \$14,223 and essentially the existing space is built out very minimally and the health code through Kane County requires a number of

upgrades for this business to put their kitchen in, such as: fire resistant ceiling tiles, easy clean new flooring and to separate the kitchen space from the rest of the unit.

Aldr. Lewis said what she led to be the intent of the program a year ago has strayed a bit and she's not sure if maybe she didn't completely understand the intent, but that's something that can be discussed at a later date. But in this particular one, they have a 3 year lease, but they have to maintain the improvements for 5 years, so she has a little concern that if for some reason they decide not to renew their lease and someone new comes in, will those improvements still have to stay there for another 2 years. Mr. O'Rourke said that is correct, there is a 5 year maintenance period in the agreement for those improvements and in this case the applicant is the business owner but the property owner has to sign that agreement as well to also agree to maintain those improvements for the 5 year period. If the business or owner modifies the improvements in the five year period, they would owe the city that money that was granted back. Ms. Tungare added that in looking at the program description it allows the Council to place a restricted covenant limiting alterations at the time of approval for the incentive grant.

Chairman Bancroft said if the landlord is signing the agreement would we need to do anything like that; would the landlord be on the hook if the improvements are removed before the 5 years. Mr. O'Rourke said correct and that's why the property owner is party to the agreement as well and it would basically behoove them to find a tenant that matches those existing improvements and if not it becomes a cost of re-tenanting.

Aldr. Turner made a motion to approve a Downtown Economic Business Incentive Award for 320 W. Main Street (Two Wild Seeds Bakery). Seconded by Aldr. Lemke.

**Roll was called:**

**Present:** Stellato, Silkaitis, Payleitner, Lemke, Turner, Krieger, Gaugel, Bessner Lewis

**Absent:**

**Nays:**

**Abstain:**

**Motion Carried 9-0**

- e. Recommendation to approve the adoption of revised Building and Fire Codes.

Mr. Vann said the proposal tonight is to address 3 (International Building Code, International Residential Code and International Fire Code) of the 11 codes that will eventually be brought before Council and these 3 codes are kind of the nuts and bolts of the construction industry as far as codes go; the code cycles are a 3 year cycle and about every 6 years staff takes a look at the codes to see how beneficial they might be for us. He said construction of buildings has progressed over the centuries from stone buildings to steel and concrete monuments to industrial revolution in technology today, and people have an expectation that when they enter a building that it is constructed in such a manner that if an emergency situation occurs they are protected. He said as new building practices improve and new building technologies are developed the complexity of the buildings has increased and as these building regulations must keep up with the technology. He said the codes adopted by governmental agencies should not prohibit or limit the use of new materials or technologies; however buildings must be constructed to be safe for the occupants; therefore the building code must keep up with the complex building practices. He said last summer the fire and building staff started the review of the latest edition of international construction codes

along with the local amendments. He said their process was to review and understand the changes that have occurred and then review the local amendments along with these documents to match the city's economic development goals, which maintain the highest level of safety for the residents and what the public expects. He said this past November staff started the public meeting process with the Building Board of Review, which consists of local contractors, engineers and design professionals who bring a wealth of knowledge in their professions, but more importantly they bring their experiences in the application of these standards. He then introduced board members Dan Marshall-Architect, Dan Hardle-Fire Prevention practice, Thomas Lang-licensed plumber and Tom Ritchie-general contractor.

Chief Schelstreet said this has been a month's long process and one of our focuses has been on eliminating as many local amendments as possible to get closer and closer to the base code. He said when adopting the fire code in 2003, there were 65 local amendments and by the time we adopted the 2009 code they had been reduced to 34 and we are now down to 25.

#### **Highlights of New Requirements (IBC)**

- Code Review Process has focus on eliminating as many local amendments as possible.
- Lessen the requirements for the installation of sprinklers for change of uses
- More options to use wood frame construction
- Increase in types of occupancies in wood frame construction

#### **Changes in the (IBC) Code that will increase construction cost**

- A second sprinkler water supply in Seismic Zones C, D, E, F (St. Charles is in Zone B)
- New requirement for opening protective glazing (safety glass in all "Fire Resistance – Rated" doors)
- Use of limited sprinkler systems (reduces the number of sprinkler heads from 20 to 6)
- Requirements for smoke alarms in college and university buildings (provides specific locations and interconnected)

#### **2015 International Fire Code (IFC) change:**

- Reduced the threshold where fire sprinklers are required
  - Within an existing building when the use changes and stays the same hazard class
  - Within certain types of utility or "U" occupancies
  - Open parking garages are no longer required to have sprinklers
- Reduce the need for on-site fire hydrants

#### **2015 International Residential Code (IRC)**

- Covers 1&2 Family, Townhomes-up to 6.
- Designed Only Residential Construction
  - Intent to cover all regulations to construct a home (1 exception- Illinois state plumbing code)
  - Similar code amendments (Elburn, Sugar Grove, North Aurora, Batavia and Geneva).

Mr. Vann said St. Charles gets together with these surrounding towns at least once a month to discuss codes and how they are enforced. Each of those towns is going to propose going to the 2015 codes for the residential section and that will help builders and developers to have similar codes and amendments.

### **Highlights of New Requirements in (IRC)**

- Continue moratorium on residential sprinkler to December 31, 2016.
- Townhouse separation – modification independent fire resistant walls can now be constructed as common walls to reduce construction cost
- Fire protection of floors (open floor framing construction (basement) shall require drywall)
- Battery operated smoke alarms are permitted for alteration, repairs, additions-requiring detectors to be brought up to current standards of new dwelling; meaning 1 in each sleeping room, 1 in each hallway on each level. Exemptions are anything constructed outside-roof, siding, windows, decks, furnace, hot water heater or removing drywall. New technology being seen is battery operated where if one goes off they all go off.

Aldr. Payleitner asked about interconnected smoke detectors. Mr. Vann said in the old code they had to be interconnected and hard wired, under the new code they all talk to each other through the battery, its wireless. He said if you have a house older than 10 years and have never changed the smoke detectors, they have lived their life; and the new requirement is a great opportunity to update your detectors because these are life saving devices. Aldr. Payleitner said she totally gets that with new construction or rentals but she had an instance where a resident in her ward was required to do this for a remodel of a bathroom, even though the homeowner was satisfied with the safety of their personal space, and she didn't feel it was right for the city come in and say they were not.

Aldr. Stellato asked if CO2 detectors are required for every level. Mr. Vann said CO2 is a state requirement but just for one level in the house outside the sleeping room; just follow the manufacturer's specs.

Aldr. Lemke asked if basement ceilings now need to have dry wall in new construction. Mr. Vann said in new construction yes, if your floors assembly is built out of anything less than 2 x 10s or are a manufactured and engineered product, those will need dry wall because they have a quick failure rate, but 2 x 10s and 2 x 12s will not.

**Aldr. Stellato made a motion to approve the adoption of revised Building and Fire Codes. Seconded by Aldr. Bessner. Approved unanimously by voice vote. Motion carried. 9-0**

#### **4. ADDITIONAL BUSINESS-None.**

#### **5. EXECUTIVE SESSION**

- Personnel 5 ILCS 120/2(c)(2), 5 ILCS 120/2(c)(5)
- Pending Litigation 5 ILCS 120/2(c)(4)
- Probable or Imminent Litigation 5 ILCS 120/2(c)(4)
- Property Acquisition 5 ILCS 120/2(c)(3)
- Collective Bargaining 5 ILCS 120/2(c)(1)

- Review of Minutes of Executive Sessions 5 ILCS 120/2(c)(14)
6. **ADDITIONAL ITEMS FROM MAYOR, COUNCIL, STAFF OR CITIZENS-NONE.**
  7. **ADJOURNMENT – Aldr. Payleitner made a motion to adjourn at 8:58pm. Seconded by Aldr. Krieger. Approved unanimously by voice vote. Motion Carried. 9-0**