

**MINUTES
ST. CLAIR SHORES CITY COUNCIL MEETING
MARCH 16, 2020**

Regular Meeting of the City Council, held in the Council Chambers, located at 27600 Jefferson Avenue., St. Clair Shores, Michigan.

Present: Mayor Kip C. Walby, Council Members Peter Accica, John Caron, Ron Frederick, Candice Rusie and Chris Vitale

Absent and
Excused: Council Member Rubino

Also Present: City Manager Matthew Coppler, Assistant City Manager William Gambill, City Clerk Mary Kotowski, City Planner Liz Koto, Directors Henry Bowman, Chris Rayes, Chief James Piper and City Attorney Robert Ihrle

1. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE

Mayor Walby called the meeting to order at 7:00 p.m. Ms. Kotowski, City Clerk, called the roll, and a quorum was present. She noted Mr. Rubino asked to be excused.

Moved by Council Member Rusie, supported by Council Member Frederick to excuse Council Member Rubino.

Ayes: All – 6
Absent: Rubino

The Pledge of Allegiance was recited.

2. PROCLAMATIONS & PRESENTATIONS - None

Mayor Walby explained that the seating for the Council meeting was set up a differently in order to comply with the Governor's recent executive order pertaining to meetings/gatherings due to the Corona Virus. We are moving in cautious steps. We have only cancelled events through March 31, 2020 at this time.

Mr. Coppler outlined the steps being taken at city hall in response to the COVID – 19 guidelines issued by the CDC which includes closing city buildings to the public. A press release was issued today with the steps we are taking. This plan has to remain flexible because things are changing every day. Parks & Recreation and the Library were closed at 3:00 p.m. today.

3. AUDIENCE PARTICIPATION ON AGENDA ITEMS (2 MINUTE TIME LIMIT) – None

4. REQUEST FOR TRANSFER OWNERSHIP OF ESCROWED CLINTON TWP 2019 CLASS C LICENSE TO THE LIDO RESTAURANT, 24026 JEFFERSON

Background: It was recommended to approve the request for a transfer in of an escrowed Clinton Twp 2019 Class C License to The Lido Restaurant, 24026 Jefferson, in compliance with the City's liquor license ordinance; with Sunday Sales, entertainment, food and outdoor service.

The Lido Restaurant, LLC has made their necessary application with the Michigan Liquor Control Commission for the license they have purchased from Kas Family Limited Partnership, at 37235 S. Groesbeck Hwy., Clinton Twp. This has no impact on our existing licenses but allows a business to bring into the city a license from within Macomb County.

They have completed our application process in compliance with City Ordinance 19.655, Sec. 5 Transfer of existing licenses "...The transfer of any existing liquor license covered hereunder shall be subject to each of the requirements, criteria and procedure, including fees, set forth in this article for the granting of a new quota liquor license." City departments have reviewed their application as follows: Police Department Reviewed - no objections, Fire Marshall Reviewed - no objections, Tax/Fin/Assessing - All items are current, CDI Reviewed - no objections, City Clerk - Application, required documentation and fee have been received.

Item 4 (Cont'd):

Virginia Carstarphen, Lido Restaurant LLC, asked for Council's approval of her request.

Moved by Council Member Frederick, and supported by Council Member Rusie to approve the application in compliance with the City's liquor license ordinance for The Lido Restaurant, LLC business, located at 24026 Jefferson, transferring in an escrowed Clinton Twp. 2019 Class C License with Sunday Sales, entertainment, food and outdoor service, as recommended by the City Manager.

Ayes: All – 6
Absent: Rubino

5. ~~**PLANNING CASES PPC20003 & 3A FOR 31601 HARPER**~~ This item will be placed on a future agenda.
- a. ~~**Request for rezoning at 31601 Harper Avenue from O-1 Office to RM-1 Multiple Family Low-Rise, represented by Detroit Architectural Group**~~
- b. ~~**Request for site plan approval at 31601 Harper for a home for the aged, represented by Detroit Architectural Group**~~
6. **PLANNING CASE PPC150016R-REQUEST FOR REVISED SITE PLAN APPROVAL FOR A RETAIL OPERATION, REPRESENTED BY KEVIN CHANG, WILD BILL'S TOBACCO**

Background: The Planning Commission recommended approval of Planning Case PPC150016R for modifications to the windows at 23107 Harper Avenue, Wild Bill's Tobacco. The applicant is requesting a revision to the 2015 Site Plan Approval. In 2015, a petitioner obtained site plan approval for a restaurant. The restaurant never completed the renovations. The new proposed user, Wild Bill's Tobacco, submitted a building permit request for interior renovations. The building permit was denied because proposed shelving units block the existing windows. The petitioner was notified that the windows cannot be blocked. The petitioner is seeking to install solid color vinyl decals on windows on three sides of the building. The petitioner is also responsible for any site plan approval conditions that have not been completed including removal of the concrete wall and installation of a 4 foot picket fence in the northwest corner of the site; installation of a dumpster enclosure; repair/replacement of the parking lot including the installation of parking blocks and parking lot striping; installation of landscaping and underground irrigation; and the installation of at least one nautical light in the parking lot. The petitioner's case was tabled at the November 18, 2019 City Council meeting to revise the exterior window elevations as well as to request the attendance of the landlord at a future City Council meeting.

Kevin Chang, Wild Bill's Tobacco's representative, asked for approval of their revised site plan. There may be low shelving in front of some of the windows that will remain clear. The first floor windows on the side will have a mirrored covering, and the second story windows will be uncovered completely.

Mr. Ihrie does not recommend approving this site plan request if the litigation is not dismissed. If Council chooses to approve the site plan, the motion should include "approval subject to dismissal of the lawsuit by Harper Management." He also pointed out that the parking lot is to be engineered to the City's satisfaction.

Larry Scott, attorney for Harper Management LLC, said they have done everything the City has asked them to do. The parking lot will be cement. He needs to speak with his clients before he can commit to dropping the lawsuit.

There was a great deal of discussion regarding the windows, the parking lot and the layout of the building. They have come up with a very good compromise based on Council's concerns.

Mr. Caron said he thinks all the windows in the front of the building should be clear, and for that reason he would be voting no. He believed their interior design for this store layout could be different than their generate layout to better fit the building.

Mr. Chang said that they can do all clear windows in the front, but there are stock walls behind the windows that they are proposing to be tinted.

The parking lot replacement was agreed to be done in 2015. There are now concerns with the existing parking lot height due to years of adding asphalt which now is significantly higher than grade level. They will submit engineered drawings satisfactory to the City for the concrete parking lot replacement (6-inch concrete) confirmed by the property owner's attorney.

Item 6 (Cont'd):

Moved by Council Member Vitale, and supported by Council Member Rusie to approve the site plan for 23107 Harper with the following items of concern: a four-foot high steel picket fence shall be installed at the northwest corner of the property in place of the existing concrete wall; the parking lot shall be replaced with concrete; engineered drawings are required for the parking area; the lot shall be striped as indicated in the original approval and parking blocks installed at each parking space; a nautical fixture shall be installed on the property; all landscaping shall be irrigated and irrigation shall extend into the right of way of Harper and Nine Mile; the existing landscaping within the right of way of Nine Mile shall be maintained; a dumpster enclosure is required to be placed in the northwest corner of the site; the application of black vinyl on the windows as presented while preserving the visibility of the existing mullions or the installation of spandrel glass with a similar mullion pattern; signage on windows cannot exceed 1/3 of each window pane; and there shall be no sale of marijuana or marijuana containing products regardless of changes to federal, state, or local laws, subject to the changes made by Wild Bills, acceptance of the Site Improvement Agreement brought forward by Harper Management LLC, and subject to the dropping of the Harper Management, LLC lawsuit against the City.

Roll Call Vote

Ayes: Vitale, Rusie, Accica, Frederick, Walby

Nay: Caron

Absent: Rubino

7. MICHIGAN DEPARTMENT OF NATURAL RESOURCES LAND AND WATER CONSERVATION FUND GRANT APPLICATION FOR KYTE MONROE - ENERGY EFFICIENT FIELD LIGHTS AND UNIVERSAL ACCESS PLAYGROUND

a. Public Hearing

The Mayor opened the Public Hearing at 8:03 p.m. – No one spoke at the Public Hearing.

The Mayor closed the Public Hearing at 8:04 p.m.

b. Request for approval to submit Land and Water Conservation Fund grant application for Kyte Monroe Park

Background: It was recommended that Mayor and Council approve the submission of a Michigan Department of Natural Resources Land and Water Conservation Fund (LWCF) grant for energy efficient field lighting and universal access playground at Kyte Monroe Park as well as allocate the required 50% matching funds up to \$317,400.

The field lighting system at Kyte Monroe Park is over 30 years old. This proposed project would retrofit the existing lighting at four multipurpose diamonds and two hardball diamonds. This project would also add new LED lighting to the park's two soccer fields and Diamond D, a field that is used for girl's fast pitch softball and boy's baseball. These proposed improvements will help implement Goal 1 of the City of St. Clair Shores' 2019-2023 Recreation Master Plan (https://www.scsmi.net/DocumentCenter/View/4542/StClairShoresRecPlan_FINAL_011019) to maintain, upgrade existing park facilities, and incorporate Green Technology. The Master Plan identified the improvement of outdoor lighting as a major theme for the City's outdoor sports facilities. The proposed new LED sports lights use less energy, provide higher quality lighting, last five times as long and therefore require less maintenance. The increased reliability of the new lights will help ensure that the lighting is functional during games. It is estimated that the City will save approximately \$5,500 annually in avoided electric and maintenance costs.

Included in this grant application is a significant upgrade to the playground at Kyte Monroe. The current play structure is over 20 years old and offers very minimal ADA accessible play elements. The proposed new universal access structure will have a poured-in-place safety surfacing to remove barriers and provide recreation opportunities to all including individuals with disabilities. A new cement path will also be installed from the north parking lot to the playground.

The MDNR requires the approval of the resolution below and the commitment of matching funds be included with the grant application. The LWCF grant requires a 50% match, the maximum LWCF grant amount is \$300,000 (\$600,000 total project cost). The engineering estimate for the project is \$617,400.

Mr. Gambill has been working with Parks & Recreation on this grant opportunity.

Item 7 (Cont'd):

Mr. Bowman said there will be room to add additional playground equipment.

Mayor Walby said the lighting requested by the Horseshoe Club is not part of this proposal.

Moved by Council Member Frederick, and supported by Council Member Accica to approve the request to apply for a Land and Water Conservation Fund grant for energy efficient field lighting and universal access playground at Kyte Monroe Park and the adoption of the MDNR resolution committing matching funds in the amount up to \$317,400 which reads as follows:

**LAND AND WATER CONSERVATION FUND
RESOLUTION OF AUTHORIZATION – LOCAL UNIT OF GOVERNMENT MATCH**

WHEREAS, the City of St. Clair Shores supports the submission of an application titled, “Kyte Monroe Improvements” to the Land and Water Conservation Fund for energy efficient field lighting and universal access playground at Kyte Monroe Park; and,

WHEREAS, the proposed application is supported by the Community’s 5-Year Approved Parks and Recreation Plan; and,

WHEREAS, The City of St. Clair Shores is hereby making a financial commitment to the project in an amount up to \$317,400 in matching funds, in cash and/or force account; and,

NOW THEREFORE, BE IT RESOLVED that the City of St. Clair Shores hereby authorizes the submission of a Land and Water Conservation Fund Application for \$300,000 and resolves to make available its financial obligation amount up to \$317,400 project cost (50%), of a total of \$617,400 for lighting improvements and universal access playground at Kyte Monroe Park, during the during the 2020 - 2021 fiscal year.

Ayes: All – 6
Absent: Rubino

8. REQUEST APPROVAL OF METRO ACT PERMIT FOR EVERSTREAM

Background: It was recommended to approve the request the METRO Act Permit with Everstream GLC Holding Company. The petitioner is requesting permission to install fiber-optic facilities within the City’s road right-of-way in various locations. This fiber will be deployed to provide wireline, fiber-based high-speed telecommunications services to existing and new small, medium and large business (enterprise) customers. This system is permitted under the Metro Act. The permit was reviewed by the City’s communications attorney, Mike Watzka. See the email response attached for additional requirements from Everstream, GLC.

Mr. Rayes explained that Everstream already has a presence in the city because they purchased FiberLink.

Moved by Council Member Caron, and supported by Council Member Accica to approve the METRO Act Permit, subject to including the City Attorney’s comments, with Everstream GLC Holding Company, as recommended by the City Manager.

Ayes: All – 6
Absent: Rubino

9. BIDS/CONTRACTS/PURCHASE ORDERS –

a. Request to award bid for Beste Water Main and Road Reconstruction (bids opened March 3, 2020)

Background: It was recommended to award the Beste Street Reconstruction and Water Main Replacement contract to Pamar Enterprises, Inc. with a base bid amount of \$1,141,248.78.

Mr. Rayes said this is one of two water main and road reconstruction projects. Pamar and Mark Anthony Contracting did Visnaw and Englehardt last year, and there were minimal issues.

Item 9 (Cont'd):

Mr. Vitale asked administration to verify if there is a sewer interceptor/sanitary sewer on Beste before construction begins in that area.

Mr. Rayes said he will investigate and get back with Council.

Moved by Council Member Caron, and supported by Council Member Accica to approve the Beste Street Reconstruction and Water Main Replacement award to Pamar Enterprises, Inc. with a base bid amount of \$1,141,248.78, as recommended by the City Manager.

Ayes: All – 6
Absent: Rubino

b. Request to award bid for Hughes Road Reconstruction (bids opened March 3, 2020)

Background: It was recommended to award the Hughes Street Reconstruction contract to Mark Anthony Contracting, Inc. with a base bid amount of \$649,990.20.

It was also recommended to award the replacement of the water main to Pamar using unit pricing from the Beste Water Main Project. The main on this street dates from 1928 and was not included in the bids due to an internal miscommunication. The value of the replacement using Pamar's unit pricing is \$334,000. Staff has reviewed all available information as well as completed some exploratory excavation and believe there are no lead service leads on this main. If any are found, they will be replaced as well.

Mr. Rayes said the money for this project is in the budget.

Ms. Rusie asked when the error was discovered and why the decision was made to use the pricing from the Beste bid instead of bidding it out.

Mr. Rayes explained that the water main was not included in the original bid because it did not have a history of significant breaks. It was later determined that this was a 1928 water main, and it would be prudent to replace it while they are doing reconstruction. Because we did not want to hold up doing this program, we are offering the solution of using the pricing from the Beste bid. Pamar and Mark Anthony have agreed to honor the pricing from the Beste bid, which was the lowest bid, and they will coordinate the work with each other. If there would have been any savings bidding this entire program at one time, it would not have been significant compared to holding up the project.

Mr. Coppler said we are offering this solution so we can move forward with the project. If Council is not comfortable using this pricing, we will rebid this project.

Moved by Council Member Accica, and supported by Council Member Caron to approve the Hughes Street Reconstruction and Water Main Replacement award to Mark Anthony Contracting, Inc. with a base bid amount of \$649,990.20, and the replacement of the water main to Pamar Construction using unit pricing at a cost of \$334,000, as recommended by the City Manager.

Ayes: Accica, Caron, Frederick, Vitale, Walby
Nay: Rusie
Absent: Rubino

c. Approval of Golf Maintenance Building Roof Coating Project

Background: It was recommended to award the contract to Thermal-Tech/Michigan Inc. for the Golf Maintenance Building Roof Coating Project in the amount of \$46,755.00 from account #101.855.980.106 as approved by Council in the FY 2020 budget. The Golf Course maintenance building roof is in need of attention. Many leaks have developed over the years due to rust. This bid covers both the Golf course maintenance building and the cold storage building that is adjacent to it. The roof is first cleaned and washed and all fasteners are tightened. Flashing and seams are inspected with all defects corrected prior to rustproofing application. A polyester fabric is applied over the rustproofing base coat followed by another coat of asphalt material. This product provides a waterproof asphalt coating to the roof that is guaranteed for 10 years.

Council Member Frederick asked administration to research what can be done on the inside of the Golf Course storage building roof in order to help prevent rusting.

Item 9 (Cont'd):

Moved by Council Member Accica, and supported by Council Member Frederick to award the Golf Course Maintenance Building Roof Coating Project to Thermal-Tech/Michigan Inc. in the amount of \$46,755.00 as recommended by the City Manager.

Ayes: All – 6
Absent: Rubino

10. SECOND QUARTER COUNCIL REPORTS AND BUDGET AMENDMENTS

11. **CONSENT AGENDA** – All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a vote of City Council. There will be no separate discussion of the items unless the Mayor and or a Council Member so requests, in which event the item will be removed from the general order of business and considered under the last item of the Consent Agenda.

Moved by Council Member Caron, supported by Council Member Frederick to approve the Consent Agenda items a – g as follows:

a. **Bills**

March 3, 2020 \$2,044,049.91

Resolved to approve the release of checks in the amount of \$2,044,049.91 for services rendered, of the report that is 20 pages in length, and of the grand total amount of \$2,044,049.91, \$281,786.43 went to other taxing authorities.

b. **Fees**

Resolved that the following Fees be approved as presented:

Ihrie O'Brien	\$7,105.95
Howard L Shifman, P.C.	\$2,250.00

c. **Progress Payments**

Resolved that the following Progress Payments be approved as presented:

Pamar Enterprises, Inc.	\$704,334.17
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d. **Approval of Minutes - None**

e. **Receive & File Boards, Commissions & Committee Minutes**

Resolved that the following minutes be received and filed:

<u>Minutes</u>	<u>Meeting Date</u>
Building/Property Maintenance Board of Appeals	January 14, 2020
Council Sub-Committee on Boards, Commissions & Committees	November 26, 2019
General Employees Pension Board	January 21, 2020
Historical Commission	February 4, 2020
Planning Commission	February 11, 2020
Sign Arbitration	January 23, 2020
Water Resources & Advisory Board	December 3, 2019

f. **Local State of Emergency Order in accordance with Section 10 of 1976 Public Act 390 and City Ordinance 35.013**

Resolved to Approve the Local State of Emergency Order in accordance with Section 10 of 1976 Public Act 390 and City Ordinance 35.013 for high lake water to remain in effect until September 1, 2020.

g. **Local State of Emergency Order in accordance with Section 10 of the 1976 Public Act 390 for Covid – 19**

Resolved to Approve the extension of the deadline for the St. Clair Shores Emergency Declaration and Order related to COVID-19 until June 16, 2020, to ensure the general safety and welfare of the City.

Ayes: All – 6
Absent: Rubino

12. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING

- **Joy Street/Park** – Mr. Coppler said he will speak with the residents tomorrow.

13. COMMENTS BY INDIVIDUAL COUNCIL MEMBERS

Council Member Accica reminded everyone to be safe during this emergency. Use common sense and check on your older neighbors.

Council Member Rusie pointed out that things are changing hour by hour. People should continue to support local small businesses.

She thanked the first responders and medical staff.

Council Member Caron stated that police will respond in an emergency. If it is not an emergency, let's not over tax them.

Take care of your neighbors.

Council Member Frederick announced the Library is closed to the public.

We have expanded our social media footprint by adding Twitter, Instagram, YouTube and Vimeo.

He thanked everyone who is helping out their neighbors and the business owners who will continue to pay their staff while they are closed during this State of Emergency.

He encouraged everyone to visit the Lakeview football team "Wefund4u" fundraiser page and donate.

Council Member Vitale asked the attorney if all the measures being taken are legal.

Mr. Ihrie confirmed yes, they are legal.

Mr. Vitale said it is the government requiring these steps. He asked people not to hoard.

He reminded residents to be wary of false claims regarding hail and/or wind damage.

Mr. Caron announced that the Memorial Day Parade Committee has postponed their fundraising dinner. They are still in need of convertibles for the parade.

15. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT) – (taken out of order)

Erich Eggert, St. Clair Shores resident, spoke about sandbagging that was done at his home.

14. CITY MANAGER'S REPORT –

Background: The City Manager recommended the approval of out of state travel for Mary Kotowski, City Clerk.

Attending this conference will allow the City Clerk to obtain half of her recertification education requirements as mandated by the Michigan State Clerk's Association.

Ms. Rusie said that she knows the value of the Clerk attending this conference, however, this item should have been a sub-section on the agenda.

Moved by Council Member Rusie, supported by Council Member Frederick, to approve out of state travel for Mary Kotowski, City Clerk.

Ayes: All – 6
Absent: Rubino

16. MAYOR'S COMMENTS –

Mayor Walby reminded everyone that many local businesses are closed, and it will be a struggle for them. There will be carryout available, so please patronize the St. Clair Shores businesses.

He said we have had three emergencies in the City such as the high water in 2019, the lead service lines and now COVID-19. We have a tremendous staff that cares about the community. It makes him feel good that people care. At the end of the day, we are trying to do what is right. We may make mistakes, but we are trying to do what it right. In this emergency, we are moving slowly and responding as we go along.

17. REQUEST THAT THE CITY COUNCIL OF THE CITY OF ST. CLAIR SHORES SHALL MEET IN CLOSED SESSION AS PERMITTED BY STATE STATUTE MCLA 15.268, SECTION 8 (e) BRAD PATRICK V CITY OF ST. CLAIR SHORES

Moved by Council Member Frederick, supported by Council Member Caron to enter Closed Session as permitted by State Statute MCLA 15.268, Section 8 (e) Brad Patrick v City of St. Clair Shores at 9:06 p.m.

Roll Call Vote

Ayes: Frederick, Caron, Accica, Rusie, Vitale, Walby

Absent: Rubino

Moved by Council Member Frederick, supported by Council Member Accica to return to Open Session at 9:43 p.m.

Ayes: All – 6

Absent: Rubino

Moved by Council Member Caron, supported by Council Member Frederick to authorize the City Attorney to proceed as discussed for B. Patrick v City of St. Clair Shores.

Ayes: All – 6

Absent: Rubino

18. ADJOURNMENT

Moved by Council Member Rusie, supported by Council Member Caron to adjourn at 9:44 p.m.

Ayes: All – 6

Absent: Rubino

KIP C. WALBY, MAYOR

MARY A. KOTOWSKI, CITY CLERK

(THE PRECEDING MINUTES ARE A SYNOPSIS OF A CITY COUNCIL MEETING AND DO NOT REPRESENT A VERBATIM RECORD).