

**MINUTES
ST. CLAIR SHORES CITY COUNCIL MEETING
MAY 20, 2019**

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, Peter Rubino (arrived at 7:05 p.m.), Candice Rusie and Chris Vitale

Absent and
Excused: Council Member Frederick

Also Present: City Manager Michael Smith, Assistant City Manager William Gambill, City Clerk Mary Kotowski, Directors Doug Haag, Henry Bowman, Chris Rayes, Chief Todd Woodcox and City Attorney Robert Ihrie

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. Mayor Walby said Mr. Rubino will be late for the meeting this evening. Ms. Kotowski noted Mr. Frederick asked to be excused from this meeting.

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

Ayes: All – 5
Absent: Frederick, Rubino

The Pledge of Allegiance was recited.

Mayor Walby expressed his condolences to Mr. Caron whose father passed away May 19th.

2. PROCLAMATIONS & PRESENTATIONS

a. Lakeview High School Girls Basketball Team

Mayor Walby presented the following proclamation to the members of the Lakeview High School Girls Basketball Team:

**PROCLAMATION
to
LAKEVIEW HIGH SCHOOL HUSKIES
2018-2019 GIRLS BASKETBALL TEAM**

WHEREAS, the Mayor and Council of the City of St. Clair Shores deem it fitting and proper to publicly express the City's pride and congratulations to the **LAKEVIEW HIGH SCHOOL HUSKIES GIRLS BASKETBALL TEAM** for their outstanding 2018-2019 season; and

WHEREAS, the **LAKEVIEW HIGH SCHOOL HUSKIES GIRLS BASKETBALL TEAM** completed their season with an overall record of 19-6, and moved forward to capture the titles of City Champions, Macomb Area Conference (MAC) Tournament Champions, District Champions and, for the first time in school history, Regional Champions; and

WHEREAS, the **LAKEVIEW HIGH SCHOOL HUSKIES GIRLS BASKETBALL TEAM** was named Basketball Coaches Association of Michigan (BCAM) Team All State Academic, these teammates have displayed good sportsmanship, have grown in character and skill, and demonstrated their hard work, determination and team spirit;

THE TEAM MEMBERS ARE:

**Julia Decker
Krista Ridgeway
Ri'Shynah Lewis
Anna Decker
Kayla Austin**

**Isabella Elsey
Kelly Wandzel
Autumn Geddie
Jaden Solomon
Tricia Sankiewicz**

**Annabella Dillenbeck
Taedom Stein
Ariana Wlodeck
Joslyn Brennan**

HEAD coach: Joe Charrette ASSISTANT COACHES: Garry Chitwood & Katie Boyle

Item 2 (Cont'd):

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of St. Clair Shores, on behalf of all its citizens extend our pride and congratulations to the **2018-2019 LAKEVIEW HIGH SCHOOL HUSKIES GIRLS BASKETBALL TEAM** and **COACHES** on their outstanding individual and team accomplishments and wish them many more years of success.

Presented this 20th day of May 2019.

Mr. Rubino arrived at 7:05 p.m.

b. Blessing of the Fleet on June 1, 2019

Fleet Captain Ken Blondell, Jefferson Beach Yacht Club, was presented with the following proclamation by Mayor Walby:

**PROCLAMATION IN HONOR OF THE
61st ANNUAL BLESSING OF THE FLEET DAY**

WHEREAS, the Mayor and the Council of the City of St. Clair Shores wish to recognize the positive publicity generated by the **Annual Blessing of the Fleet**, and wish to acknowledge the role of the **Jefferson Yacht Club** in their sponsorship of this important annual event; and

WHEREAS, the members of the **Jefferson Yacht Club**, as well as the many other pleasure boaters who utilize and enjoy the extensive boating facilities available in the City, have helped to make the City of St. Clair Shores the Flagship of Lake St. Clair; and

WHEREAS, pleasure boating is one of the City's greatest recreational and economic assets;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the Council of the City of St. Clair Shores do hereby proclaim June 1, 2019 as the **61st Annual Blessing of the Fleet Day** in the City of St. Clair Shores, and thank the many boaters who attend the event for their continuing patronage of St. Clair Shores recreational facilities and businesses.

Presented this 20th day of May 2019.

c. Adult Special Needs

Olivia Jourdan and Kayla Oakey spoke about how participants in special needs programs age out at 26. They organized a formal dance in January to benefit the older special needs population, and it was a huge success. They hope to develop more programs for special needs residents over the age of 26. They plan to walk in the Memorial Day Parade.

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

4. REQUEST FOR ADOPTION OF A VAPING ORDINANCE

Background: A Request for Legal Service was submitted March 8, 2019 requesting the City Attorney to draft a Vaping Ordinance for Council approval.

Mr. Ihrie explained that we have an ordinance on tobacco products for minors. More products are coming to market, for example vaping products, and these are often laced with nicotine. He has updated this ordinance and brought it into compliance with state law.

He noted some additional minor changes in verbiage.

He is looking into obtaining signage from the County Health Department which would include the verbiage on vaping, as it is their obligation to provide it. Also, he will verify if there is a state statute on the type of community service that the judge can order for offenders.

Item 4 (Cont'd):

Moved by Council Member Rusie, supported by Council Member Accica to repeal and replace Ordinance 40.150A – Smoking; minors. Sec. 17C-20.1, to include Vaping, as reviewed by the City Attorney and recommended by the City Manager, with Attorney changes and investigation of community service option, as follows:

THE CITY OF ST. CLAIR SHORES AN ORDINANCE TO REPEAL A PORTION OF CHAPTER 40.150 ARTICLE C, GENERAL PROVISIONS (40.150A), SECTION 17C-20.1 SMOKING; MINORS OF THE ORDINANCES OF THE CITY OF ST. CLAIR SHORES AND REPLACED WITH NEW ORDINANCE 2019-002 40.150A SECTION 17C-20.1 EFFECTIVE JUNE 14, 2019.

ST. CLAIR SHORES ORDINANCE 40.150A which reads as follows:

THE CITY OF ST. CLAIR SHORES ORDAINS:

40.150A - Smoking; minors.

Sec. 17C-20.1.

- 1) No person under the age of eighteen (18) shall purchase, offer or attempt to purchase, have in his possession or use any product which is used for the formation of a smoking device, tobacco, tobacco snuff, chewing tobacco or tobacco in any other form.
- 2) No person shall sell, furnish, give or deliver any produce which is used for the formation of a smoking device, tobacco, tobacco snuff, chewing tobacco or tobacco in any other form, to any person under the age of eighteen (18).
- 3) A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense.
- 4) A person under the age of seventeen (17) who violates this section shall be liable for a civil infraction fine of no more than \$50.00, a person who is seventeen (17) years old or older who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense.

(Amend. eff. Mar. 8, 1994)

Is Hereby Repealed and Replaced by New Ordinance 2019-002 Chapter 40.150a Section 17c-20.1 with immediate effect upon publication on June 14, 2019.

The City of St. Clair Shores ordains:

Section 1. Chapter 4, Section 17C-20.1 of the Codified Ordinances of the City of St. Clair Shores is hereby amended to read as follows:

GENERAL PROVISION TOBACCO OFFENSES CONCERNING UNDERAGE PERSONS

Sec. 17C-20.1. Sale and use of tobacco products and vapor products; minors; prohibited.

(a) *Findings, intent and purpose.* The City finds that persons under age 18 are prohibited by law from purchasing or possessing cigarettes and other tobacco products, and retailers are prohibited from selling them to minors. However, tobacco-less products commonly referred to as “electronic cigarettes,” “e-cigarettes,” “e-cigars,” “e-cigarillos,” “e-pipes,” “e-hookahs,” “mods,” “Juuls,” “e-pens,” or “electronic nicotine delivery systems” allow the user to simulate cigarette smoking and ingest nicotine. These products may be purchased by minors and are being marketed without age restrictions or health warnings and come in different flavors that appeal to young people. The City further finds studies by the FDA have determined that e-cigarettes can increase nicotine addiction among young people and contain chemical ingredients known to be harmful, which may expose users and the public to potential health risks. Furthermore, the use of e-cigarettes and similar devices has increased significantly in recent years. Based on these findings, this section is adopted for the purpose and with the intent to protect the public health and safety of the city and

Item 4 (Cont'd):

its residents by prohibiting persons under age 18 from possessing and using tobacco products and vapor products and prohibiting the sale of tobacco products and vapor products to persons under age 18.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Minor means an individual who is less than 18 years of age.

Person who sells tobacco products at retail means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

Person who sells vapor products at retail means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.

Possess a tobacco product or vapor product shall mean either actual physical control of the tobacco product or vapor product without necessarily owning that product, or the right to control the product, regardless of whether it is in a different room or place than where the person is physically located.

Public place means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or premises, or in a public place of business.

Tobacco product means a product that contains tobacco and is intended for human consumption, including but not limited to cigarettes, non cigarette smoking tobacco, or smokeless tobacco, as those terms are defined in Section 2 of the Michigan Tobacco Products Tax Act (MCL 205.422), cigars, chewing tobacco, and flavored tobacco (shisha). Tobacco product does not include a vapor product or a product regulated as a drug or device by the United States Food and Drug Administration.

Use a tobacco product or vapor product means to smoke, chew, suck, inhale, or otherwise consume a tobacco product or vapor product.

Vapor product means a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration.

(c) *Generally.* No person shall sell, give, or furnish a tobacco product or vapor product to a minor, including, but not limited to, through the use by a minor of a vending machine. A person who violates this subsection or subsection 17C-20.1(c)(4) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation.

- (1) It is an affirmative defense to a charge under subsection 17C-20.1 (c)(4) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products and vapor products to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, with the court and serve a copy of the notice on the city attorney. The defendant shall serve the notice not less than 14 days before the date set for trial.
- (2) If the city attorney proposes to offer testimony to rebut the affirmative defense described in subsection 17C-20.1 (c)(4) the city attorney shall file a notice of rebuttal, in writing, with the court and serve a copy of the notice on the defendant. The city attorney shall serve the notice not less than 7 days before the date set for trial and shall include in the notice the name and address of each rebuttal witness.

Item 4 (Cont'd):

- (3) Subsection 17C-20.1 (c) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of the minor's employment.
- (4) Before selling, offering for sale, giving, or furnishing a vapor product to an individual, a person shall verify that the individual is at least 18 years of age by doing 1 of the following:
- a. If the individual appears to be under 27 years of age, examining a government-issued photographic identification that establishes that the individual is at least 18 years of age.
 - b. For sales made by the internet or other remote sales method, performing an age verification through an independent, third party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 18 years of age or older.
- (d) Sign required concerning sales to minors.
- (1) A person who sells tobacco products or vapor products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement:
- The purchase of a tobacco product or vapor product by a minor under 18 years of age and the provision of a tobacco product or vapor product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product or vapor product is subject to criminal penalties.
- (2) If the sign required under subsection 17C-20.1 (d)(1) is more than 6 feet from the point of sale, it shall be 5 ½ inches by 8 ½ inches and the statement required in subsection 17C-20.1 (d)(1) shall be printed in 36 point boldface type. If the sign required under subsection 17C-20.1 (d)(1) is 6 feet or less from the point of sale, it shall be 2 inches by 4 inches and the statement required under subsection 17C-20.1 (d)(1) shall be printed in 20 point boldface type.
- (3) The signs required by subsection 17C-20.1 (d)(1) may be procured from the department of community health pursuant to state law. The seller may add the "vapor product" language to the sign if the department of community health does not or will not include it.
- (4) A person who violates this subsection shall be guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense.
- (e) Prohibited conduct; penalty for violation.
- (1) Subject to subsection 17C-20.1 (e)(3), a minor shall not do any of the following:
- a. Purchase or attempt to purchase a tobacco product or vapor product.
 - b. Possess or attempt to possess a tobacco product or vapor product.
 - c. Use a tobacco product or vapor product in a public place or on school property.
 - d. Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product or vapor product.
- (2) A violation of subsection 17C-20.1 (e)(1) is punishable as follows:

Item 4 (Cont'd):

- a. The first violation is a municipal civil infraction, punishable by a fine up to \$500.00 for each violation, except that the fine will be \$50.00 for each violation cited on a single municipal civil infraction citation if the individual completes a health promotion and risk reduction program approved by the St. Clair Shores Police Department, either within 30 days of receiving the citation or prior to entering a plea of responsible at the district court.
 - b. For minors under the age of 17, a second violation or subsequent violation is a municipal civil infraction punishable by a fine up to \$500.00 for each violation, except that the fine will be \$50.00 for each violation cited on a single municipal civil infraction citation if the individual performs not less than 20 hours of community service in a hospice, nursing home, or long term care facility, as verified in a form satisfactory to the St. Clair Shores Police Department, either within 30 days of receiving the citation or prior to entering a plea of responsible at the district court.
 - c. For minors age 17, a second violation or subsequent violation is a misdemeanor, punishable by a fine up to \$500.00. The court may order the individual to complete a health promotion and risk reduction program and perform not more than 40 hours of community service in a hospice, nursing home, or long term care facility.
- (3) Subsection 17C-20.1 (e)(1)) does not apply to a minor participating in any of the following:
- a. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer sponsored internal enforcement action.
 - b. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.
 - c. Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in the Public Health Code, 1978 PA 368, MCL 333.6103, and with the prior approval of the state police or a local police agency.
- (4) Subsection 17C-20.1 (e)(1) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.
- (5) This section does not prohibit an individual from being charged with, convicted of, or sentenced for any other violation of law that arises out of the violation of subsection 17C-20.1 (e)(1).
- (f) Parental responsibility. A primary caretaker having custody or control of a minor who violates subsection 17C-20.1 (e)(1) shall be responsible for a municipal civil infraction and a fine of \$500.00 for knowingly allowing or, through lack of supervision, allowing the minor to violate subsection 17C-20.1 (e)(1). The fine will be \$50.00 if the primary caretaker completes a health promotion and risk reduction program approved by the public safety department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.
- (g) Sales of individual cigarettes.
- (1) Except as otherwise provided in subsection 17C-20.1 (g)(2), a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

Item 4 (Cont'd):

- (2) Subsection 17C-20.1 (g)(1) does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.
- (3) A person who violates subsection 17C-20.1 (g)(1) is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 for each offense.

Section 2. Severability.

If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 3. Savings Clause.

A prosecution which is pending on the effective date of this Ordinance and which arose from a violation of an Ordinance repealed by this Ordinance, or a prosecution which is started within one (1) year after the effective date of this Ordinance arising from a violation of an Ordinance repealed by this Ordinance and which was committed prior to the effective date of this Ordinance, shall be tried and determined exactly as if the Ordinance had not been repealed.

Section 4. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 5. Publication.

This ordinance shall be published by posting the same in three (3) public places within the City of St. Clair Shores and the Clerk is hereby ordered to post the same upon the bulletin boards in the Police Station, 27665 Jefferson Avenue, the Fire Hall, 26700 Harper Avenue, and the City Hall, 27600 Jefferson Avenue.

Section 6. Effective Date.

The ordinances shall become effective upon publication by the City Clerk.

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the St. Clair Shores City Council on the 20th day of May 2019, and that the necessary Charter provisions have been observed.

Kip C. Walby, Mayor

Mary A. Kotowski, City Clerk

I, Mary A. Kotowski, City Clerk of the City of St. Clair Shores, hereby certify that the foregoing ordinance was published by posting true copies of the same in each of the following places: Police Station, 27665 Jefferson Avenue, Fire Hall, 26700 Harper Avenue, and City Hall, 27600 Jefferson Avenue on the 14th day of June 2019.

Mary A. Kotowski, City Clerk

(Effective June 14, 2019)

Ayes: All – 6
Absent: Frederick

5. THIRD QUARTER COUNCIL REPORTS AND BUDGET AMENDMENTS

Background: After adoption of the original budget, revenues and expenditures are reviewed during the fiscal year. The quarterly and monthly reports serve as a management tool to monitor actual revenues and expenditures in relation to the adopted budget. The budget is amended when actual revenues or expenditures are projected to not meet expectations. In the end, the budget information presented to the auditors and reported in the Comprehensive Annual Financial Report (CAFR) will reflect the final amended budget as approved by City Council.

Mr. Caron asked about the emergency repairs item at Blossom Heath and why it was put in the third quarter.

Mr. Smith explained that the outside condenser units at Blossom Heath failed, and they had to make an emergency repair. It should have been in the second quarter.

Item 5 (Cont'd):

Mr. Caron stated that, although emergency repairs can be done without Council approval, they should have been notified and then brought to Council after the fact for approval. Mr. Smith will double check the procedure.

Moved by Council Member Accica, supported by Council Member Caron to approve the proposed FY 2019 Budget Amendment 19-03 as follows and receive and file the FY 2019 Third Quarter Council Reports:

Fund/ Dept.	Account	Description	Increase	Decrease
BUDGET AMENDMENT 19-03 - REVISED				
101	General Fund			
266	930.000	Repairs & Maintenance	49,532	
253	950.300	Contingency		49,532
To adjust budget to reflect emergency repairs to Blossom Heath HVAC system				
100	531.000	REVENUE - CDBG	26,945	
706	992.000	INTEREST	19,811	
706	992.500	FEES & MAINTENANCE	7,134	
To adjust budget to reflect initial loan payment and closing costs on HUD CDBG loan for Senior Center				
100	675.705	REVENUES - Donations - Parks	7,000	
705	750.000	PARKS - Operating Supplies	10,913	
Fbal	390.000	Fund Balance		3,913
To adjust budget to reflect Little Caesars donation and purchase & installation of scoreboards at St. Gertrude's				
100	675.705	REVENUES - Donations - Parks - Memorial Benches	2,000	
705	750.000	PARKS - Operating Supplies	4,144	
Fbal	390.000	Fund Balance		2,144
To adjust budget to reflect purchase and donations for memorial benches				
130	Court Building Fund			
140	930.000	Repairs & Maintenance	4,850	
Fbal	390.000	Fund Balance		4,850
To adjust budget to reflect cost of emergency repairs to HVAC system.(PO 2018-0237-00)				
260	Michigan Indigent Defense Commission (MIDC) Fund			
100	571.000	REVENUE - Grant proceeds from State of Michigan	335,993	
140	810.000	PROF SERVICES - Attorney Fees	45,000	
140	701.000	WAGES	12,000	
Fbal	390.000	Fund Balance	278,993	
To adjust budget to reflect estimated revenues and expenses for MIDC program thru June 30, 2019				
590	Utility Fund			
870	820.000	Sewage Disposal	196,088	
Fbal	390.000	Fund Balance		196,088
To adjust budget to reflect increase in SEMSD sewage disposal charges from \$8,807,461 to \$9,003,549				

Item 5 (Cont'd):

Ayes: All – 6
Absent: Frederick

6. BIDS/CONTRACTS/PURCHASE ORDERS –

a. Bid Award for Workers Compensation Claims Handling by Third Party Administrator (bids opened 3/26/2019)

Background: Rather than utilizing an insurance agent as in prior years the City opted to issue an RFP for workers compensation claims handling services. To my knowledge this is the first time this has been accomplished. Interviews were conducted with the two low bidders – Eagle Claims Management and York Risk Services Group.

The claims handling is a specialized professional service that the City contracts for to make sure it is in compliance with all current rules and regulations. York handles a number of the self-insured local governments as well as the State of Michigan so they understand the complexities of what we do. This is important because York also works very closely with City staff in making sure that no one is abusing the system and receiving benefits that they are not entitled to. Our claims are handled locally by their office in Howell, MI.

York is proposing a substantial decrease in their fees for the next three years. This is a combination of a decrease in caseload and the competitive bid process. York provides their services on a not-to-exceed basis whereas others, such as Eagle Claims Management, have an a la carte approach.

Our own experience with the customer service from York has been excellent over the past eight years and a significant improvement over previous providers the City has had.

If you look at the bid tabulation results, it would appear that Eagle Claims Management is the lowest bidder. This is because they did not provide a “not-to-exceed” quote as requested and instead submitted an a la carte proposal. After taking an “apples-to-apples” approach, their three year costs increased from \$38,400 to \$52,871 once we included loss control services (\$9,000) and medical review fees (\$5,471). Both are included in the proposal from York Risk Services Group.

Historical costs for these services are as follows:

Fiscal Year	Claims TPA Provider	Amount
2021-22	York – Proposed	\$17,184
2020-21	York - Proposed	\$16,684
2019-20	York - Proposed	\$16,198
2018-19	York	\$30,000
2017-18	York	\$30,000
2016-17	York	\$30,667
2015-16	CMI	\$30,667
2014-15	CMI	\$28,956
2013-14	CMI	\$28,956
2012-13	CMI	\$22,369
2011-12	CMI	\$24,321
2010-11	AF/CompOne	(Est) \$27,000

York/CMI also serviced the City from 1999 thru 2005 and handled ‘tail’, or, prior carriers’ claims, for the period of 1977 – 1999. The City returned to York/CMI in 2011 and they have been our provider since. They assumed tail claims from 2005 – 2011.

Moved by Council Member Rubino, and supported by Council Member Caron that the recommendation of the City Manager to renew the Workers Compensation Claims handling for 3 years beginning July 1, 2019 with York Risk Services Group be approved, the annual fees for years 1 thru 3 will be \$16,198, \$16,684 and \$17,184 respectively, and is contingent upon the City Attorney reviewing and approving the agreement.

Ayes: All – 6
Absent: Frederick

Item 6 (Cont'd):

a. Bid Award for Property and Liability Coverage (bids opened 4/30/2019)

Background: MMRMA also included an optional quote for a second year at a premium not-to-exceed 7% of \$460,779 and subject to the terms and conditions in their proposal. Since we have not had any success in bidding this over the last ten plus years, it is proposed that we skip the bid process at least for next year and instead come back to Council for approval as soon as we have the MMRMA proposal and net asset distribution for FY 2020 – 2021.

The MMRMA proposal includes a rate increase of \$32,087, or, 7.5%, which is primarily due to internal rate modifications within the MMRMA system. We went through the bid process to obtain quotes for property and liability coverages. The bid was advertised and placed on the BidNet website as per best practices. It was posted on March 1, 2019 with a due date of April 30, 2019, allowing vendors sixty (60) days to prepare a response. We also had a request from one vendor to allow on-site risk assessments so that they could gather additional underwriting information. This was done over two days and required several hours of time each from the Fire Chief, Police Chief, DPW Director, City Manager and the Finance Director.

We received a total of two responses – one from the incumbent MMRMA and a second from Nickel & Saph, Inc. This was promising as the last three times the city has issued an RFP – 2018, 2016 & 2015 – there was only one response. The two previous times before that – 2011 and 2012 – there were two responses.

As a result of the lack of traditional insurance providers, many states, including Michigan, have established insurance pools which are made up of and owned by the municipalities themselves to provide the specialized coverages. The Board of Directors of the MMRMA is made up of local government officials from throughout the State of Michigan. The legal status of the MMRMA is legally filed as a governmental entity.

We have been with the MMRMA for nearly 35 years – since September 1, 1984. Ibex Insurance Agency is one of the agencies representing the MMRMA. They are responsible for 149 MMRMA local government client-members, including St. Clair Shores. Of the 149 Ibex serviced MMRMA members, St. Clair Shores was the only member to go out to bid so far in 2019. This is another indication that coverage options are very limited for all municipalities.

The MMRMA announced on January 16, 2019 a distribution of excess net assets to current renewing members of \$28.0 million. The City's share is \$76,248. After taking this into account, the net MMRMA proposal is now \$384,531 as compared to Nickel & Saph Inc. (NSI) quote of \$440,329. With this distribution, MMRMA has distributed over \$307,000,000 to its renewing members since 2006. Last year the City received \$97,196 as part of a net asset distribution of \$29.0 million. The average net asset distribution the previous 5 years has been over \$114,000.

Premium and Net Asset Distribution History

PREMIUM AND NET ASSET DISTRIBUTION HISTORY			
Fiscal Year	Premium	Net Asset Distribution	Net
2020	\$460,779	\$76,248	\$384,531
2019 (Revised)	\$428,692	\$97,196	\$331,496
2018	\$425,324	\$71,294	\$354,030
2017	\$408,376	\$97,779	\$310,597
2016	\$374,795	\$170,516	\$204,279
2015	\$349,388	\$136,750	\$212,638
2014	\$335,289	\$56,466	\$278,823
2013	\$336,011	\$142,597	\$193,414
2012	\$347,621	\$182,734	\$164,887
2011	\$369,206	\$108,173	\$261,033
2010	\$399,563	\$0	\$399,563
2009	\$544,114	\$231,900	\$312,214
2008	\$529,131	\$133,652	\$395,479
2007	\$537,652	\$63,694	\$473,958

Item 6 (Cont'd):**Other MMRMA Benefits & Savings**

Additional excess net assets of \$1,750,000 will be made available to the membership through the MMRMA's Risk Avoidance Program (RAP). The City has received approximately \$146,000 towards approved RAP Grants, dating back to 2006 for an annual average of over \$11,000 in money returned to the City. The most recent included \$7,000 for a sewer camera project in 2018 and \$16,000 for a vehicle monitoring system in 2019. To my knowledge, the carriers involved in the Nickel & Saph, Inc. quotation do not offer any similar programs.

Also, dating back to FY 2008, MMRMA has paid \$388,813 on behalf of St. Clair Shores for Property Protection Insurance, Personal Injury Protection claims (Michigan No-Fault benefit) and Emergency First Aid. The MMRMA is the only program in the state that waives a member's self-insured retention for these claims. Under any other program, the City would have paid the entire amount of each claim, as they were all under the \$200,000 self-insured retention. This averages out to savings of another \$32,000 per year.

Claims Handling and Excess Coverage

NSI proposes to outsource the claims handling to an outside firm – The ASU Group. And, not all of the claims handling costs are included in the NSI proposal as any administration time over 10 hours per claim is billable at an hourly rate ranging from \$375 to \$750. There is no way to quantify what this added cost might be at this time.

The MMRMA performs all of the claims handling in-house. This is an advantage to the City because MMRMA staff are familiar with laws that are unique to the State of Michigan that can have a significant impact on claims liability from sewer backups, slip & falls, streets & roads, etc.

The NSI proposal has an aggregate liability limit of \$15,000,000. MMRMA has no limit. Again, there is no way to quantify what this additional cost might be.

The MMRMA program that we are a part owner of, has other financial benefits not reflected in the annual premium.

Mr. Smith said the new Controller will receive direction to provide us with what the dividend is going to be as soon as possible so Council can decide whether or not to rebid this contract.

Moved by Council Member Rubino, and supported by Council Member Caron that the bid for property and liability coverage be awarded to the Michigan Municipal Risk Management Authority for two years beginning July 1, 2019. The first year premium will be \$460,779 and any increase for the second year cannot exceed 7% of this amount.

Ayes: All – 6
Absent: Frederick

a. Request to Award Kyte Monroe Irrigation Improvements (bids opened 4/23/2019)

Background: The irrigation system at Kyte Monroe Park is approximately 40 years old and is in need of updating. This proposed project would replace the current system with a programable sprinkler system and also install sprinklers in fields 2 and 3. Fields 2 and 3 are currently not sprinklered.

The City advertised on BidNet for bids requesting the contractor perform the work meeting HUD requirements. Bids were due on 4/23/2019. The City received three responses. The low bid for both the base bid (furnish and install) and alternate (install only) was Marc Dutton Irrigation Inc.

Project savings: Over the past 5 years, the City spent \$22,216.69 to repair the Kyte Monroe sprinkler system. Parks and Recreation spends an estimated \$9,600 annually in labor costs to irrigate the fields.

There is \$75,058.11 available in the \$1 HUD account. The proceeds will be applied to this project, and the \$1 HUD fund will be closed out.

Sal Sulolli, Parks & Recreation, said this includes one year for parts and labor and five years for parts on the Toro. It does meet the requirements for HUD.

Mr. Bowman said this project will begin July 1st and be done by early October. He anticipates the water bill will be less because this will be more efficient than our current process.

Item 6 (Cont'd):

Mr. Rubino appreciates that this will save time, but he wants to be assured that the other existing problems will be repaired.

Moved by Council Member Rubino, and supported by Council Member Accica to award a contract to Marc Dutton Irrigation Inc. to furnish and install irrigation equipment at Kyte Monroe Park in the amount of \$125,415 and amend the 2019 Parks and Recreation Capital Outlay Budget (705.980), to fund this improvement, utilizing, in part, the remainder of the \$1 HUD proceeds.

Ayes: All – 6
Absent: Frederick

- b. ~~**Bid award and blanket PO for purchase of Firefighter Protective Ensemble**~~ Moved to June 3rd agenda.
- c. **Request to award 2019 Water Main Replacement Program (bids open 4/30/2019)**

Background: As stated in the cover sheet from HRC, Bricco Excavating, Co. withdrew their bid for Division 3 of this project. Staff has directed HRC to have their bid bond forfeited to the maximum amount permitted by law.

Mr. Rayes said this covers three watermain replacements, Shock between 11 Mile and Martin, Evergreen between Harper and Greater Mack and Harmon between 10 Mile and Stephens. The area affected is between the sidewalk and the street. He has been assured the contractor will keep going once they start, they will not jump around.

Moved by Council Member Caron, and supported by Council Member Accica to approve the 2019 Water Main Replacement Program to award Pamar Enterprises, Inc. in the amount of \$1,448,845.00, as recommended by the City Manager.

Ayes: All – 6
Absent: Frederick

- 7. **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 Rusie to approve the Consent Agenda items b – e, separating item a, as follows:

- b. **Fees**
Resolved that the following Fees be approved as presented:

Ihrie O'Brien	\$9,456.55
---------------	------------

- c. **Progress Payments**
Resolved that the following Progress Payments be approved as presented:

DiPonio Contracting	\$563,309.12
---------------------	--------------

- 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>
Brownfield Redevelopment Authority	January 17, 2019
Council Sub-Committee on Boards, Commissions & Committees	March 26, 2019
Cultural Committee	April 10, 2019
Election Commission	October 16, 2018
Historical Commission	April 2, 2019
Mechanical Equipment Arbitration Committee	April 8, 2019

Item 7 (Cont'd):

Memorial Day Parade Committee
 Memorial Day Parade Committee
 Police & Fire Civil Service Commission
 Tax Increment Finance Authority – Special
 Tax Increment Finance Authority – Special
 Tax Increment Finance Authority – Special
 Zoning Board of Appeals

January 2, 2019
 January 16, 2019
 March 4, 2019
 January 17, 2019
 February 25, 2019
 March 12, 2019
 March 7, 2019

Ayes: All – 6
 Absent: Frederick

Separated Item:

a. Bills

May 9, 2019

\$2,602,977.93

The last part of 7a is the City credit card statement which will now be included with the bills. The credit card number was redacted.

Moved by Council Member Caron, supported by Council Member Rusie to approve the release of checks in the amount of \$2,602,977.93 for services rendered, of the report that is 28 pages in length, and of the grand total amount of \$2,602,977.93, \$0 went to other taxing authorities.

Ayes: All – 6
 Absent: Frederick

8. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING

- **Activity Flooding/Sandbagging** – Mr. Smith spoke in great detail about the flooding in our area. We declared an emergency through our County to the State, and this made the Army Corps of Engineers available to us. They are here every day and have already been to 43 sites. Information on sandbagging is available on our City website and Facebook page. Letters were sent to people who are not on the water but do own a pocket park.
- **Ambulance Revenues** – We are ahead of the prior year, but we are still a little behind with the billing company.
- **Court Server** – We are moving \$12,000 from the Building Fund to deal with the server issue.
- **Fire Inspector project** – Data is being gathered for a Study Session.
- **Interactive Crime App** – A meeting will be scheduled to discuss how to roll it out.
- **Firm to market Jefferson Property for Sale** – There are meetings scheduled this week and early next week.
- **Brys Park Walking Track** – How will the cost be addressed?
- **Englehardt Project** – Council members should email as soon as possible if they agree with including Chapoton to Mack in this project.

9. COMMENTS BY INDIVIDUAL COUNCIL MEMBERS

Council Member Accica said the cement contractor who is doing the approaches on Jefferson is using sawhorse barricades. He does not believe they are MDOT approved and would like staff to review them.

He asked about the patches being used north of 12 Mile. Mr. Rayes said they are using a new product “Tekcrete”.

Mr. Accica wanted to alert residents that he was parked on his street in the evening, and his car was broken into. They are also going into backyards.

He worked on the Nautical Coast Cleanup on Sunday. It was a big job and many volunteers turned out to help.

Council Member Rusie stated that she is in favor of expanding the Englehardt program.

She noted that the Blossom Heath emergency service repairs should have been disclosed to City Council after the fact.

She spoke about the Nautical Coast cleanup and thanked the participants and sponsors. It was a busy weekend with City events.

Item 9 (Cont'd):

The St. Clair Shores elementary teams won medals at the County Science Olympiad.

She thanked the Relay for Life Eastside team for participating in the recent street solicitation.

She made several Library announcements.

She spoke about the parade booklet and all the hard work that was put into it.

Council Member Rubino asked if the curb on Evergreen and Harper had been looked at yet. Mr. Rayes said it had been looked at, and an email was sent to the County as that is their right of way.

Mr. Rubino said people are complaining about the banners at 11 Mile and Harper being backward. Mr. Smith said they are hung properly.

Mr. Rubino asked that the tall grass and animal feces at the City owned house at Colony & 9 Mack Drive be addressed.

He asked what we are doing about the businesses on Greater Mack that still do not have sidewalks. Mr. Rayes spoke with the engineers regarding this, and they said the sub-contractor opted to finish a different job first. They are supposed to be back this week.

Mr. Rubino is extremely frustrated about the lack of information on the City lot that is for sale. We need to hire someone immediately to get this property marketed.

Council Member Caron thanked the many volunteers who helped with the Nautical Coast Cleanup.

He spoke about the history of his dad's business, Norb's Barbershop, on Harper.

Council Member Vitale thanked the Nautical Coast Cleanup crew.

He noted that people on Milk River received letters about the flooding. The standard is the same as on a canal which is 18" above the current water line.

He asked for information on the curb drain on Detour. He would like the ordinance/policy to be placed on an agenda.

He asked about the fire damaged house on Little Mack. Mr. Rayes stated that this is still with the City Attorney.

Mr. Vitale asked for a list of Saturday Code Enforcement issues that we are going to take action on.

He asked about lighting at night in the parking lot at 9 Mile and Harper. Mr. Rayes stated that they are not required to light the lot at night.

Mr. Vitale asked how vacant "big box stores" that are still paying their lease are taxed (two Kroger locations). Mr. Smith will check with the City Assessor.

Mr. Vitale asked about the seat belt enforcement zones. Chief Woodcox explained that this is paid for by a Federal Highway Safety grant. It is a requirement for road funding, or we lose those federal dollars.

Mr. Vitale said that there have been people racing up and down the streets on ATVs. What should residents do? Chief Woodcox said to call the police when it is happening. If you can identify the house where the vehicles are parked, call 445-5305, and an officer can follow up with a knock on the door. The police will also put special attention on that neighborhood. If people prefer to email, use the following: hammer@scsmi.net or crimewatch@scsmi.net.

Chief Woodcox spoke about code enforcement on the weekend. There is a clause that allows us to collect signs and send a citation through the mail if the owner can be identified.

Mr. Smith announced that three Police Officers were promoted today.

10. CITY MANAGER'S REPORT - None

11. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT) – None

12. MAYOR'S COMMENTS

Mayor Walby noted that the spring tree trimming contractor needs to trim along Jefferson from Greater Mack south of 10 Mile for bike riders.

He spoke about all the great events going on around the City and thanked all the volunteers and participants.

13. ADJOURNMENT

Moved by Council Member Caron, supported by Council Member Rubino to adjourn at 9:03 p.m.

Ayes: All – 6
Absent: Frederick

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).