

**MINUTES
CITY COUNCIL MEETING
CITY OF ST. CLAIR SHORES
27600 JEFFERSON CIRCLE DRIVE
ST. CLAIR SHORES, MI 48081**

Tuesday, April 6, 2009

PRESENT:

Mayor
Council Members

Robert A. Hison
Matthew S. Ahearn
Ronald J. Frederick
Beverly McFadyen
Mark J. Moffitt
David J. Rubello
Kip C. Walby

ALSO PRESENT:

City Manager
City Clerk
City Attorney
Finance Director/Treasurer
Community Services Director
Communications Director
Recording Secretary

Kenneth R. Podolski
Mary A. Kotowski
Robert D. Ihrie
Tim Haney
Chris Rayes
Mary Jane D'Herde
Raluca Munteanu

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

Mayor Hison called the meeting to order at 7:02 p.m. Ms. Kotowski, City Clerk, called the roll with a quorum present. The Pledge of Allegiance was recited by those in attendance.

Mayor Hison announced the tragic car accident that took place on March 16, 2009. Mayor Hison asked for a moment of silence for the four teenagers killed in the accident, Erica Haudek, Stephanie Currie, Jordan Michalak and Devon Spurlock. He thanked the St. Clair Shores and Roseville communities for the support provided to their families.

Mayor Hison stated that Agenda item #2 will be discussed when Mr. Sander Levin arrives as traffic delayed his arrival.

3. AUDIENCE PARTICIPATION ON AGENDA ITEMS (2 MINUTE TIME LIMIT)

Mayor Hison informed the audience about the new item on the agenda "Audience Participation on agenda items." Last Council meeting, it was decided that audience interested to speak on any agenda item has to fill out a form prior to the start of the meeting and will have two minutes to speak on that item at the beginning of the meeting. The forms are collected by Ms. Kotowski, who will call names in the order she receives them and will keep the time.

Erin Stahl, 20113 Avalon, addressed her concerns about the purchase of new lockers for the Police Department, Agenda item #9a. She suggested working with schools that closed to use their old lockers. Agenda item #8, she questioned who is responsible for the police and fire protection expenses and who will take care of fixing any damages to the City's park after the event.

Bryan Murphy, 23400 Recreation, asked why the City is spending money on the World War II Enactment rather than the annual fireworks, which would bring many more participants. He questioned who will pay for any damages to the Veterans Memorial Park, if the event will produce revenue and what happened to the old sponsor.

2. PRESENTATION – UPDATE ON THE ECONOMIC STIMULUS PACKAGE BY U.S. REPRESENTATIVE SANDER LEVIN (TAKEN OUT OF ORDER)

Mr. Sander Levin, U.S. Representative, presented the Economic Stimulus Package as it pertains to St. Clair Shores. The package relates to individuals by extending unemployment benefits, providing support to help individuals keep their employer provided healthcare, payroll tax relief and mortgage assistance to homeowners.

PRESENTATION – UPDATE ON THE ECONOMIC STIMULUS PACKAGE cont'd.

For the community, funds will be provided for education, transportation, clean water, winterization of homes and the Neighborhood Stabilization Program.

Mayor Hison thanked Mr. Levin for his time. It is compensating to know that the government is aware of the current situation and that help is out there.

Mr. Podolski also thanked Mr. Levin and his team for the quick answers to all the City's questions and requests.

Mr. Levin announced that information about the stimulus package would be available on the website at www.house.gov/Levin.

4. **REQUEST FROM HUNTINGTON BANK FOR A TRANSFER OF MICHIGAN LIQUOR CONTROL COMMISSION OWNERSHIP (STEP I) ON A 2001 CLASS C LICENSED BUSINESS WITH DANCE PERMIT IN ESCROW AT 25225 E JEFFERSON, FROM EPIC EVENTS, INC. (GOURMET HOUSE) REMOVED AT PETITIONER'S REQUEST**
5. **CITY ATTORNEY PRESENTATION OF PROPOSED REVISION FOR THE LIQUOR LICENSE ORDINANCE 19.650**

Mr. Ihrie prepared a revised Liquor License Ordinance reflecting changes requested by Council at the December 8, 2008 Study Session. The essential modifications are lowering the seating requirement to 150 seats for a new quota license. Licenses in excess of six quota licenses may be granted with fewer than 150 seats if certain conditions are met. These conditions are: the petitioner has invested a specified amount of money in the property within a set period of time preceding the application, or agrees to invest after grating of the license; the establishment meets current parking requirements and has operated continuously for at least five years within the City; the petitioner has at least five years experience as an owner/operator of a restaurant; a specified floor space should be devoted to dining; and any other factors the Council considers important to protect the health, safety and welfare of the City and its residents.

Mr. Ihrie specified that the above conditions apply only to businesses that do not meet the 150 seating requirement and this can only take place if the City holds at least six quota licenses. If the liquor license ceases to be used for ninety days, the license will be returned to the City. He explained that the license is owned by the State and the City is an authorized issuer.

Mr. Ihrie prepared an outside agreement between the City and any petitioner. The agreement states that if for any reason except for fire or acts of God, the license ceases for more than ninety consecutive days, the license will be returned to the MLCC and it will be added to the City's available quota licenses. The petitioner will not transfer the license outside the City and any transfer within the boundaries of St. Clair Shores is subject to approval of the City and the MLCC. In the event of default of the drafted agreement, the City is entitled to recover its reasonable costs and attorney fees.

Mr. Ihrie stated that other communities use this type of agreement and he is not aware of any court denying the contract. Mr. Ihrie presented another document that should be passed out to petitioners requesting to apply for a liquor license. The document reveals the process of application and approval.

Mr. Rubello stated most businesses that do not currently hold a liquor license, do not meet the 150 seating requirement. He was aiming for a lower seating requirement, but if the ordinance gives petitioners with lower seating the opportunity to apply if all conditions are met, he agrees with the change. He did not agree with the investment criteria because most businesses do not own the buildings.

Mr. Walby agreed with the 150 seating requirement and the need for an investment condition. The City is giving away a valuable asset and expects more appealing businesses around St. Clair Shores. He suggested an investment limit of \$40,000 to \$50,000 which can be satisfied in a longer period of time because of the current economy. Mayor Hison pointed out that petitioners can invest prior or after the application approval.

Mrs. McFadyen stated that Gim Ling restaurant spent a lot of money remodeling their interior and should be placed on the list, even though the money was spent prior to the ordinance amendment.

Mr. Ahearn suggested that if investment is to be done after approval of the liquor license, the City should require submitted approved plans at time of application.

CITY ATTORNEY PRESENTATION OF PROPOSED LIQUOR LICENSE ORDINANCE cont'd.

Mr. Frederick asked if the City can sign separate agreements with petitioners, knowing that the State does not allow individual agreements. Mr. Ihrie replied that the City's recommendations to the MLCC will be without agreements.

Mr. Ihrie stated that the language in the ordinance has to be specified whether to include personal or real property in regards to the investment criteria. Council agreed that the investment is to be done to real property.

Mr. Ahearn clarified that the City is not forcing any business to apply for a liquor license. Restaurants that are interested and ready to invest will apply. He mentioned that most leasing contracts require business owners to fix the building and bring it up to code.

Mr. Frederick questioned if the 90% of usable floor space to be devoted for dining was too high. He would like to see this number be more flexible because it is not a realistic number in the bar/restaurant business. Mayor Hison stated that most businesses interested in the City's quota licenses are restaurants.

Mr. Moffitt raised the issue that an older business will not meet the parking requirement. Mayor Hison responded those petitioners can still apply and provide planning changes for extra parking. Mr. Rayes clarified that if there are only interior renovations, parking for a grandfathered site would not change.

Mr. Ihrie affirmed that the Liquor License Ordinance is not part of the Zoning Ordinance and parking variance can not be addressed by petitioners through the Zoning Board of Appeals. Council would need to grant parking space variances.

Motion by Walby, seconded by McFadyen to approve adoption of Amendments to the Liquor License Ordinance, Section 19.650 lowering the seating requirement for a new license to 150 and allowing the issuance of a new Class C license to a business not meeting the 150 seating requirement with conditions which include: 1) a real property investment in the property prior to the application or if the investment is to be done after, submitted approved plans have to be present at the time of the application; 2) City Council would be the body to appeal to for a parking variance at the time of license application; and 3) the application would enter into an Agreement regarding issuance or transfer of Class C Liquor License with the City (a copy of this agreement form will be attached to the original minutes of this meeting). The amendment language reads as follows:

The City of St. Clair Shores ordains that Ordinance 19.650 the Liquor License Ordinance shall be amended as follows:

19.654 Applications for new license.

Sec. 4.

(1) City application required. The applicant must first submit an application for a liquor license to the City of St. Clair Shores. The applicant shall submit a current and fully completed "City of St. Clair Shores Liquor License Application," as prepared and furnished by the city clerk, to:

City Clerk
City of St. Clair Shores
27600 Jefferson Avenue
St. Clair Shores, Michigan 48081

(8) Restrictions on licenses. No license shall be issued to:

- (1) A person, co-partnership or corporation unless the premises of the proposed business shall seat a minimum of 225 persons. This provision shall apply to newly issued licenses only.
- (2) A person whose liquor license has been revoked or not renewed for cause under this article, or a comparable city, or township ordinance, or state law whether in Michigan or otherwise.
- (3) A co-partnership or partnership, unless all the members of such co-partnership or partnership shall qualify to obtain a license.
- (4) A corporation, if any officer, manager, or director thereof, or stockholder owning in the aggregate more than ten (10) per cent of the stock of such corporation would not be eligible to receive a license hereunder for any reason.
- (5) A person who has been convicted of a crime punishable by death or imprisonment in excess of one year under the law under which he was convicted; a crime involving theft, dishonesty or false statement (including tax evasion) regardless of punishment; or a crime or administrative violation of a federal or

CITY ATTORNEY PRESENTATION OF PROPOSED LIQUOR LICENSE ORDINANCE cont'd.

- state law concerning the manufacture, possession or sale of alcoholic beverages or controlled substances.
- (6) For premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance.
- (9) Request for consideration of conditional approval. Once an applicant who has been asked to proceed by presenting a more detailed and complete proposal has sufficiently completed its plans, and obtained site plan, engineering, zoning, planning, and other necessary approvals by the city, the applicant may then request consideration by the council of a conditional approval. Upon the receipt of a written notice by an applicant that he requests consideration of a conditional approval, the city clerk shall cause the application to be placed on the agenda of the city council for said council's action within sixty (60) days of the receipt of the same by the office of the clerk. At that meeting, the applicant shall be prepared to discuss the following:
- (1) Cost estimates for the building, furnishings and fixtures as part of the proposal.
 - (2) Site plan information, including landscaping and other aesthetic features of the proposal.
 - (3) Estimate of the number of employees who would be required for the operation.
 - (4) Information on the individual or individuals expected to manage the operation, as well as information as to how the facility would actually be managed.
 - (5) Information about any entertainment or dancing that might be involved.
 - (6) Answers to any related questions about the proposed improvements and/or general operation of the facility.
 - (j) Action by council; contingencies of conditional approval. Following this presentation by the applicant, the city council may conditionally approve, above all others, the application, postpone consideration for a reasonable period, or reject said approval. Conditional approval will be contingent upon the obtaining of building permits and any other necessary permits, licenses or approval from the city within six (6) months from the date of such conditional approval. The construction of new buildings and alterations of existing buildings shall commence within six (6) months after the date of the conditional approval, with a completion date of no more than one year after the issuance of the relevant building permit. Extensions for completion of construction or alteration may be granted by the city council for good cause.
 - (k) Changes in plans, drawings, etc. After receipt of a conditional approval by the city council, no floor plan, building elevation, site plan, seating arrangement, kitchen lay-out, or other pertinent facts, drawings or documents submitted to the city council may be changed without the applicant first receiving approval from the engineering department, building department and city council.
 - (l) Recommendation for approval of liquor license. Upon completion of the building and in accordance with the prior conditional approval for the council, the city council shall then thereupon recommend, above all others, the applicant for approval of the liquor license to the liquor control commission of the State of Michigan.
 - (m) Reservation of authority. No applicant for a liquor license has a right to the issuance of such license to him, her or it, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone shall be entitled to the issuance of such license.

(ord. eff. March 13, 2001)

Shall be amended as follows:

Sec. 4.

(1) *City application required.* The applicant must first submit an application for a liquor license to the City of St. Clair Shores. The applicant shall submit a current and fully completed "City of St. Clair Shores Liquor License Application," as prepared and furnished by the city clerk, to:

City Clerk
City of St. Clair Shores
27600 Jefferson **Circle Drive**
St. Clair Shores, Michigan 48081

(8) *Restrictions on licenses.* No license shall be issued to:

- (1) A person, co-partnership or corporation unless the premises of the proposed business shall seat a **minimum of 150** persons. This provision shall apply to newly issued **quota** licenses only.
- (2) **The City Council may issue a license to an applicant who owns an existing business that has fewer than the minimum seating requirement if all of the following conditions are met:**

CITY ATTORNEY PRESENTATION OF PROPOSED LIQUOR LICENSE ORDINANCE cont'd.

- a. The City holds more than six (6) un-issued quota licenses,
 - b. The petitioner has invested at least \$50,000 in the real property within the 36 months preceding the application, or agrees to invest at least \$50,000 in the real property within the 24 month(s) after the granting of the license with approved improvement plans submitted with the application, unless the establishment is less than ten (10) years old.
 - c. The establishment meets the current parking requirements. City Council shall be the body to grant a parking variance which shall be submitted with the application.
 - d. The establishment has operated continuously for at least five (5) years within the City of St. Clair Shores.
 - e. The petitioner has at least five (5) years experience as an owner/operator of a restaurant.
 - f. At least 90% of usable restaurant/bar floor space is devoted to dining (as opposed to bar).
 - g. Any other factors that City Council considers important to protect the health, safety and welfare of the City and its residents.
- (3) A person whose liquor license has been revoked or not renewed for cause under this article, or a comparable city, or township ordinance, or state law whether in Michigan or otherwise.
 - (4) A co-partnership or partnership, unless all the members of such co-partnership or partnership shall qualify to obtain a license.
 - (5) A corporation, if any officer, manager, or director thereof, or stockholder owning in the aggregate more than ten (10) per cent of the stock of such corporation would not be eligible to receive a license hereunder for any reason.
 - (6) A person who has been convicted of a crime punishable by death or imprisonment in excess of one year; ~~under the law under which he was convicted~~; a crime involving theft, dishonesty or false statement (including tax evasion) regardless of punishment; or a crime or administrative violation of a federal or state law concerning the manufacture, possession or sale of alcoholic beverages or controlled substances.
 - (7) For premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance.
- (9) *Request for consideration of conditional approval.* Once an applicant who has been asked to proceed by presenting a more detailed and complete proposal has sufficiently completed its plans, and obtained site plan, engineering, zoning, planning, and other necessary approvals by the city, the applicant may then request consideration by the council of a conditional approval. Upon the receipt of a written notice by an applicant that he requests consideration of a conditional approval; the city clerk shall cause the application to be placed on the agenda of the city council for said council's action within sixty (60) days of the receipt of the same by the office of the clerk. At that meeting, the applicant shall be prepared to discuss the following:
- (1) Cost estimates for the building, furnishings and fixtures as part of the proposal.
 - (2) Site plan information, including landscaping and other aesthetic features of the proposal.
 - (3) Estimate of the number of employees who would be required for the operation.
 - (4) Information on the individual or individuals expected to manage the operation, as well as information as to how the facility would actually be managed.
 - (5) Information about any entertainment or dancing that might be involved.
 - (6) Answers to any related questions about the proposed improvements and/or general operation of the facility.
- (10) *Action by council; contingencies of conditional approval.* Following this presentation by the applicant, the city council may conditionally approve, above all others, the application, postpone consideration for a reasonable period, or reject said approval. Conditional approval will be contingent upon the obtaining of building permits and any other necessary permits, licenses or approval from the city within six (6) months from the date of such conditional approval. The construction of new buildings and alterations of existing buildings shall commence within six (6) months after the date of the conditional approval, with a completion date of no more than one year after the issuance of the relevant building permit. Extensions for completion of construction or alteration may be granted by the city council for good cause.
- (11) *Changes in plans, drawings, etc.* After receipt of a conditional approval by the city council, no floor plan, building elevation, site plan, seating arrangement, kitchen lay-out, or other pertinent facts, drawings or documents submitted to the city council may be changed without the applicant first receiving approval from the engineering department, building department and city council.

CITY ATTORNEY PRESENTATION OF PROPOSED LIQUOR LICENSE ORDINANCE cont'd.

(12) *Recommendation for approval of liquor license.* Upon completion of the building and in accordance with the prior conditional approval for the council, the city council shall then thereupon recommend, above all others, the applicant for approval of the liquor license to the liquor control commission of the State of Michigan.

(13) *Reservation of authority.* No applicant for a liquor license has a right to the issuance of such license to him, her or it, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone shall be entitled to the issuance of such license.

(ord. eff. March 13, 2001; **amend. eff. April 16, 2009**)

19.655 Transfer of existing licenses.

Sec. 5. 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 liquor license. In addition, the transferee, applicant shall furnish a copy of any and all files which may be in the Michigan Liquor Control Commission's possession regarding that commission's investigation of the transferee as a present licensee, or as a previous licensee, or in which transferee has or has had a partial interest in. In addition, all local taxes must be paid in full prior to transfer approval.

(ord. eff. March 13, 2001)

Shall be amended as follows:

Sec. 5. 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. In addition, the transferee - applicant shall furnish a copy of any and all files which may be in the Michigan Liquor Control Commission's possession regarding that commission's investigation of the transferee as a present licensee, or as a previous licensee, or in which transferee has or has had a partial interest in. In addition, all local taxes must be paid in full prior to transfer approval.

(ord. eff. March 13, 2001; **amend. eff. April 16, 2009**)

Any ordinance or parts of any ordinance in conflict with any provisions of this ordinance are hereby repealed.

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

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 Circle Drive.

STATE OF MICHIGAN)
) ss
COUNTY OF MACOMB)

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the City Council on the 6th day of April 2009, and that the necessary Charter provisions have been observed.

ROBERT A. HISON, MAYOR

MARY A. KOTOWSKI, CITY CLERK

I, Mary A. Kotowski, 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 Circle Drive on the 16th day of April 2009.

MARY A. KOTOWSKI, CITY CLERK

(ord. amendment eff. **April 16, 2009**)

Ayes: All (7)

CITY ATTORNEY PRESENTATION OF PROPOSED LIQUOR LICENSE ORDINANCE cont'd.

Mayor Hison stated that the City currently holds nine liquor licenses. Businesses that meet the new seating requirement can apply right now. For the ones that do not meet the seating requirement, three licenses can be issued.

Council agreed to consider issuing three Class C licenses for applicants not meeting the 150 seating requirement, since there are nine available.

Motion by McFadyen, seconded by Rubello to approve consideration of the issuance of three Class C licenses to businesses who do not meet the 150 seating capacity requirement.

Ayes: All (7)

6. PUBLIC HEARING TO REVIEW THE ASSESSMENT ROLL, HEAR OBJECTIONS TO THE ROLL AND CONFIRM THE ROLL FOR THE SPECIAL ASSESSMENT DISTRICT FOR THE DREDGING OF THE 2009/2010 MAPLE – BENJAMIN CANAL DREDGING

Mayor Hison announced that last month, Council determined there was a necessity to create a Special Assessment district. This is the second step for this process for the Maple – Benjamin Canal dredging.

This project is totally funded by the residents, whom will pay the entire cost to be divided / spread by household basis. The cost of said improvement has been calculated to be \$50,400 / \$1,200.00 per house (42) and the residents request that the payments be made in two installments. Mr. Ihrie stated that this is a public hearing to hear any objections to this special assessment.

The ordinance requires that 50% deposit (\$25,200) must be received by the City prior to this hearing. Mayor Hison confirmed that the deposit was received on Friday, April 3, 2009.

Mayor Hison opened the Public Hearing at 8:30 p.m. and there were no residents to speak on the item, so the Public Hearing was closed at 8:31 p.m.

Motion by Walby, seconded by Frederick to adopt the Resolution confirming the Special Assessment District Roll Number Maple – Benjamin Canal Dredging 2009/2010 for the improvement of the Maple – Benjamin Canal through dredging. A copy of the roll will be attached to the original minutes of this meeting as Exhibit A. Resolution reads as follows:

WHEREAS, MAPLE / BENJAMIN CANAL SPECIAL ASSESSMENT ROLL NO. Maple – Benjamin Dredging 2009/2010 has been prepared and reported by a petition signed by owners of two-thirds of the lots adjacent to and abutting on the canal or water-course of the Maple – Benjamin canal to the City Council for the purpose of defraying the cost of the following improvement:

To dredge from the mouth and lake ward only into Lake St. Clair of the Maple - Benjamin Canal. The legal description of the Special Assessment District boundaries is as follows:

“Couchez’s Lake St. Clair Subdivision (Liber 3, Page 3), Lots 11, 12, 15, 16, 19, 20, 23, 24, 27, 28, 31, 32, 35, 36, 39, 40 and 43; and Assessor’s Plat No. 19 (Liber 15, Page 1), Lots 10 through 16; and West’s Venetian Gardens Subdivision (Liber 12, Page 42), Lots 8 through 34, Lot 35 except the east 23.00 feet of the south 63.00 feet, Lots 36 and 37 except the south 63.00 feet, and filled lands lying adjacent to the above described portions of Lots 35 through 37”

AND WHEREAS, said Special Assessment Roll has been reviewed by the City Council at a public hearing after due and legal notice thereto given in accordance with the Charter:

AND WHEREAS, the City Council is satisfied with said special assessment roll as reported by the Assessor to it:

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. Said Special Assessment Roll No. Maple – Benjamin Dredging 2009/2010 in the sum of \$50,400.00 to be spread over 42 households with a maximum cost of \$1,200.00 per household as reported by the Assessor be and the same is hereby confirmed.**

PUBLIC HEARING FOR SPECIAL ASSESSMENT DISTRICT MAPLE-BENJAMIN CANAL DREDGING cont'd.

2. The cost of the improvement has been calculated at \$50,400.00, all of which is assessed for Special Assessment District-Maple - Benjamin Dredging 2009/2010. This project is totally funded by the residents, where residents agree to pay the entire cost by house.
3. Said special assessment roll shall be divided into two (2) installments, the first installment to be due 30 days (May 6, 2009) from the confirmation date of the special assessment roll. The second installment shall be due one year from the due date of the first installment (May 6, 2010). After the due date of the first installment, interest shall accrue on all outstanding balances at an annual rate of six percent (6%). Each property owner, as voted by the majority of property owners of the Maple - Benjamin Homeowners Association, shall provide payment of \$1,200.00 (per household at \$600.00 per year).

25.405 Deposit. Sec. 5. The lot owners who petition for the improvement shall be required to deposit in the office of the City Clerk, 50% of the estimated cost of the improvement prior to the hearing on the rolls, as provided by Section 9.3 [10.243] of the City Charter.

4. All unpaid installments of the special assessment roll shall bear interest payable annually at the rate of 5% per annum commencing with the due date of the first installment. Penalty Rate: The whole assessment against any lot or parcel of land may be paid to the City Treasurer at any time in full with interest and penalties accrued to the date of the payment of the next installment. If any installment of a special assessment is not paid when due, then the same shall be deemed to be delinquent and there shall be collected thereon, in addition to interest as above provided, a penalty at the rate of one-half of one percent for each month or fraction thereof that the same remains unpaid before being reported to the Council for reassessment upon the City tax roll.
5. The Homeowners Association has provided the City Clerk in writing which Association Members are authorized to sign invoices for payment, which has been forwarded to the City Treasurer to authorize release of payments.

Ayes: All (6)
Absent: McFadyen

7. **REQUEST FROM CHURCH WORLD SERVICE TO HOLD A CROP WALK FOR HUNGER ON SUNDAY, MAY 3, 2009 FROM 1:30 PM TO 3:30 PM (REMOVED AT PETITIONER'S REQUEST)**
8. **REQUEST FOR SPECIAL EVENT APPROVAL OF THE WORLD WAR II ENACTMENT WEEKEND BY THE ACTIVITIES COMMITTEE AND PARKS & RECREATION EVENT TO BE HELD JULY 24 (SET-UP ONLY), JULY 25 FROM 9 AM – 4 PM, AND JULY 26 FROM 9 AM – 2 PM AT VETERANS MEMORIAL PARK**

Mr. Paul Palazzolo announced that the event was originally approved by Council on February 2, 2009 and is back to present the change in sponsorship. The Bruce Post backed down because of insurance liability reasons due to the change in location this year. The new group that took over is the St. Clair Shores Activities Committee.

Mr. Frederick stated that two meetings have been held in regard to this event. The event will be held at Veterans Memorial Park. Any damages, police and fire expenses will be paid by the participating groups. They will provide an additional insurance policy to the City for that weekend. Mr. Walby confirmed that the Parks & Recreation department will receive two dollars for every ticket that will be sold. This revenue will be used for the renovations at the Veterans Memorial Park and the cost for police services will be paid by the event groups.

Mr. Palazzolo stated that they will name a representative of the groups participating as the treasurer.

Mrs. McFadyen questioned why the City is not charging a small fee for the fireworks event to help fund the event. She asked Mr. Frederick to introduce the idea to the next Activities Committee meeting.

Mr. Rubello clarified that there will be no general funds from the City paying for the War World II event.

Mr. Moffitt was concerned about the City's insurance in regards to any damages resulting from the event. Mr. Ihrie replied that any damages will be covered by the participating groups' insurance, but if there are any injuries or death, the City is covered by the City's existing policy.

Mr. Walby stated that a three million insurance policy is required by the City for the event.

SPECIAL EVENT APPROVAL OF THE WORLD WAR II ENACTMENT WEEKEND cont'd.

Mr. Palazzolo announced the World War II Enactment Weekend will take place July 25, 2009 from 9:00 a.m. to 4:00 p.m., and July 26, 2009 from 9:00 a.m. to 2:00 p.m. and set-up to occur on July 24.

Motion by Moffitt, seconded by McFadyen to approve request for special event of the World War II Enactment Weekend by the Activities Committee and Parks & Recreation Event to be held July 24 (set-up only), July 25 from 9 am – 4 pm, and July 26 from 9 am – 2 pm at Veterans Memorial Park subject to naming the City as an additional insured on their public liability insurance prior to the event, providing further information to the Fire Chief as addressed in his memo, and providing a detailed itinerary no later than July 1, 2009 as well as agreeing to reimburse the City for the costs associated with police protection for the event; the air landing of helicopter be approved by necessary agencies, the Activities Committee's treasurer to be named as the event's treasurer and that all revenues and expenses (checks) run through this Committee's treasurer; the written agreements on damage restoration prepared by the City Attorney are still executed; Parks & Recreation shall be reimbursed for the lost Parks revenue that weekend and shall receive \$2 from each admission paid to be used for the repairs to the Veterans Memorial Park and a financial report shall be presented to Council after the event.

Ayes: All (7)

9. BIDS/CONTRACTS/PURCHASE ORDERS

a. Request to award bid for Replacement Lockers for Police Department (bids opened 3/24/09)

On March 24, 2009, the City of St. Clair Shores received bids for replacement lockers for the Police Department. Shelving, Inc. was the lowest bidder, at \$15,521.55.

Mr. Willette explained that the current lockers are over fifty years old; they are not fixable and became an injury hazard to the officers.

Mr. Walby stated that the lockers do appear worn out but he can not approve this spending because of the current economy. Mr. Willette replied that the Police building is really old and they were looking at replacing it. That would result in a cost of over eleven million dollars, so instead they are fixing what they can.

Mr. Rubello asked if any grants can be used to pay for the lockers. No funds qualify for this spending.

Motion by McFadyen, seconded by Frederick to award bid for replacement lockers for Police Department to Shelving, Inc., at \$15,521.55.

Ayes: All (6)
Nay: Walby

b. Request to award bid for Parkside St. and Euclid Blvd. Water Main Replacement Project (bids opened 3/3/09)

Mr. Houtekier presented the Parkside St. and Euclid Blvd. Water Main Replacement Project for which St. Clair Shores received bids on March 3, 2009. The low bidder is FDM Contracting, Inc. at \$551,371.25. The bid is being awarded using the alternate bid prices to install C900-PVC pipe. This is a savings of \$26,275.00 from the base bid of installing ductile iron pipe at \$577,646.25.

An unsolicited bid was also submitted by Murphy Pipeline Contractors, Inc. The bid was submitted with unbalanced numbers assuming that certain pay items would not be needed using the pipe bursting method. The project was designed and bid out using an open trench method as pipe bursting has historically always been more costly. In order to use the pipe bursting method, the project would have to be re-designed and re-bid at an added cost and without certainty that it would come at a lower cost. Therefore, based on the recommendation of the consulting engineers and past experience with this contractor, it is suggested awarding the project to FDM Contracting, Inc.

Mr. Houtekier stated that this project has been budgeted and it will be paid from the Water Department's funds.

Mr. Rubello questioned why Murphy Pipeline Contractors, Inc. was disqualified. Mr. Houtekier replied that

CONSENT AGENDA cont'd.

may convene the commission at such times that they believe that the commission's assistance would be helpful in any matter concerning the community, including but not limited to matters concerning the city's cable television franchise agreement and ordinance. The duties of the commission shall, from time to time, be delineated by the mayor and council, and/or the city manager as the need may arise. Five members of the communications commission shall constitute a quorum. The commission shall be advisory in nature. (chap. 3 eff. Aug. 5, 1986; amend. eff. March 20, 2000, November 17, 2005)

Shall be amended as follows:

Sec. 3-09. There is hereby created a communications commission which is intended to combine the duties of and supplant the community relations commission and cable television committee, the latter of which was created by council resolution in 1982. The communications commission shall consist of 9 members ***appointed to 3 year staggered terms and 1 (one) alternate with the term for this alternate shall be two years from the date of appointment*** from the combination of the cable television commission and the community relations commission who shall serve at the pleasure of mayor and council and until such time as mayor and council undertake a membership review. In the event of such membership review, the mayor shall appoint the members with consent of city council. Further, the mayor or any three members of council may convene the commission at such times that they believe that the commission's assistance would be helpful in any matter concerning the community, including but not limited to matters concerning the city's cable television franchise agreement and ordinance. The duties of the commission shall, from time to time, be delineated by the mayor and council, and/or the city manager as the need may arise. Five members of the communications commission shall constitute a quorum. The commission shall be advisory in nature. (chap. 3 eff. Aug. 5, 1986; amend. eff. March 20, 2000, November 17, 2005, ***April 15, 2009***)

Any ordinance or parts of any ordinance in conflict with any provisions of this ordinance are hereby repealed.

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

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 Circle Drive.

STATE OF MICHIGAN)
) ss
COUNTY OF MACOMB)

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the City Council on the 6th day of April 2009, and that the necessary Charter provisions have been observed.

ROBERT A. HISON, MAYOR

MARY A. KOTOWSKI, CITY CLERK

I, Mary A. Kotowski, 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 Circle Drive on the 15th day of April 2009.

MARY A. KOTOWSKI, CITY CLERK

(ord. amendment eff. April 15, 2009)

Ayes: All (7)

11. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING

- **PCB's** – Mr. Podolski stated that samples of the canal were taken but he has not seen a copy of the report yet to see where St. Clair Shores stands state and nationwide. There will be no further cleaning of the canal until drain issues are resolved.

12. COMMENTS BY INDIVIDUAL COUNCILPERSONS

Council Member Frederick announced upcoming community events and congratulated the St. Clair Shores Figure Skating Club and the Harper Avenue Association on their recent events. He welcomed the new library café, the Dockside Café.

Mr. Frederick stated that the Council does not tolerate such comments on character defamations that were brought up at the last meeting. He commends the entire City's staff on their great job.

Council Member Walby wishes everyone a happy Easter.

Council Member Ahearn addressed his disappointment with the last few Council meetings. He is disappointed in comments made by the audience and in himself that he didn't stop the comments. Mr. Ahearn was elected to do a job, and he accepts his responsibilities of making the best decisions for the City. The Council meetings should be held professionally and if there is a problem, it should be addressed to the Council rather than the City's staff.

Council Member Moffitt congratulated the Harper Avenue Association on the Harper Expo and wished everyone a happy Easter.

Council Member McFadyen announced upcoming fundraiser and wished a happy Easter to all.

Council Member Rubello announced the 14th Annual Nautical Coast Cleanup on May 17, 2009.

Mayor Hison wished everyone a happy Easter.

13. CITY MANAGER'S REPORT – NONE

14. AUDIENCE PARTICIPATION

Kathryn Hanson, 22436 Milner, announced that Wednesday is Buddy Day, organ donation day. Anyone 18 or older can be a donor and unfortunately, Michigan has the lowest donation rate in the country. More information can be found on the web at www.giftoflifemichigan.org.

Peter Rubino, 22016 Shady Lane, thanked Mr. Ihrle for explaining the City Charter to him. He does not agree with the water meters purchase because of the economy. The money should be used for necessities during hard economic times.

Raymond DeBates, 34140 Jefferson, on behalf of the Harper Avenue Association, thanked participants for the 4th Annual Harper Expo which turned out great with attendance of around 650 people.

Daniel Livings, 28111 Joan, talked about his great experience with the City on his sidewalk replacement. Residents do not appreciate many things done by the City. He spoke about Paul Doppke's involvement with the City. He gives back to the community, including a fundraiser for a cancer patient.

Keith Bammel, 23163 Gladhill, thanked Council for posting the Agenda package on the web. He addressed the water meter purchase. He suggested delaying the purchase to see how the economy will be in the future. He took offense at the last Council meeting, because he takes his time to bring legitimate concerns before Council.

Carol Monberg, 22637 11 Mile Road, questioned if the cost of water meters of \$197 is the final charge to residents and asked if it could be postponed.

John Lossman, 22804 Barton, commended Council for allowing the freedom of speech giving audience the chance to speak on Agenda items. Mr. Lossman announced the National Tea Day, April 15, 2009.

Brian Murphy, 23400 Recreation, stated that he is not against the War World II Enactment Weekend, but he is disappointed that fireworks will not take place this year.

Chris Vitale, 27903 Larchmont, discussed his history and involvement in St. Clair Shores. He talked about staffing levels, department heads and discretionary spending. Introduced the Shores Taxpayers and Residents against Waste Committee, information about their first meeting can be found at www.strawscs.com.

AUDIENCE PARTICIPATION cont'd.

James Kelly, 23142 N. Roosevelt Ct., wished everyone a happy Easter and discussed his concerns in regards to storing boats and RV's. He has seen a lot of positive changes in the City, but he still sees commercial vehicles, boats and RV's parked illegally. He complained about a commercial vehicle parked on Little Mack, between 10 Mile Road and Frazho. Mr. Kelly wants to see the City enforce the ordinance regarding commercial and recreational vehicle storage.

Erin Stahl, 20113 Avalon, raised her concern about the Cool Cities Committee having an odd number of members. Mayor Hison replied that the Committee has ten members, a voting Council Liaison and two alternates.

Mrs. Stahl thanked Council for posting the packets on the website and allowing the audience to speak on Agenda items.

Don Galat, 21821 Maxine, has been a resident for 34 years and he is proud of the City. He has seen people come and go, but services have always stayed consistent. He appreciates the job the City is doing. Mr. Galat is concerned about the quality of work done by the State on bridge improvements, because the sidewalks at I-94 and Nine Mile Bridge are crumbling.

Jack Doerr, 22407 Bayview, asked if there is a way to delay the purchase of water meters. Residents should be allowed to vote for the purchase of water meters.

15. ADJOURNMENT

Motion by Walby, seconded by Frederick to adjourn the meeting at 10:20 p.m.

Ayes: All (7)

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

ROBERT A HISON, MAYOR

MARY A. KOTOWSKI, CITY CLERK