

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

Monday, September 21, 2009

**PRESENT:**

Mayor  
Council Members

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

**EXCUSED:**

Council Member

Beverly A. McFadyen

**ALSO PRESENT:**

City Manager  
City Clerk  
City Attorney  
Community Services Director  
Recording Secretary

Kenneth R. Podolski  
Mary A. Kotowski  
Robert D. Ihrle  
Christopher Rayes  
Carole Ciamillo

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

Mayor Hison called the meeting to order at 7:00 p.m. Ms. Kotowski, City Clerk, called the roll and noted Council Member McFadyen requested to be excused from the meeting.

**Motion by Frederick, seconded by Rubello to excuse Council Member McFadyen from the meeting as she was out of town on City business.**

Ayes: All – 6

A quorum was present. The Pledge of Allegiance was recited by those in attendance.

Mayor Hison stated last week there was an explosion on Yale Street where Virginia Cislo was fatally injured. At this time, it is thought that a gas leak was the cause of the explosion, but further investigation is ongoing. The medical attention provided to Ms. Cislo transported her to St. John Hospital within seven minutes. Mayor Hison thanked the surrounding cities that assisted with the fire, as well as the neighbors who helped pull Ms. Cislo out of the burning home.

Mayor Hison stated that Elizabeth Burnett, mother of Chief of Police Charles Burnett, passed away on Saturday and he expressed sympathy to the family and friends of the Burnett family; he asked for a moment of silence for Mrs. Burnett and Ms. Cislo.

**2. PROCLAMATIONS & PRESENTATIONS**

**a. Shorewood Kiwanis Club Proclamation**

Mayor Hison presented a proclamation to the Shorewood Kiwanis Club expressing pride and appreciation on the occasion of their 50<sup>th</sup> Anniversary as a part of St. Clair Shores. He added that the Club's 47 active members have diligently given of themselves in community and civic service on behalf of local charitable causes, and contributed financial support to young children.

Mark Stolburg, president, thanked Mayor Hison for the proclamation, and explained some of the Kiwanis' purposes and goals. Tom Ulrich, recently awarded the position of Lt. Governor for Division 1, gave a report of concerts in Wahby Park. The report was distributed to Mayor and Council. He stated that the Shorewood Kiwanis and the Macomb Chamber Music Society presented a series of free concerts at Wahby Park for eight consecutive Mondays featuring professional, local and student musicians. Mr. Ulrich added that the concerts were free to the public, but they are not without cost. Shorewood Kiwanis financed three concerts

**a. Shorewood Kiwanis Club Proclamation cont'd.**

and local businesses covered another three concerts. Ted Wahby took care of another concert and those that came willingly contributed enough for the last concert.

Mr. Ulrich thanked Council for providing the opportunity of doing the concerts, and asked them to consider a repeat series for next summer.

Mike Boyle, member of the Kiwanis for 24 years, stated the Kiwanis make St. Clair Shores a great place to live.

Mr. Boyle, also a County Commissioner, explained there will be a Senior Citizen Outreach Program at St. Margaret's Church on 13 Mile Road on September 24, 2009, from 10:00 a.m. to 1:00 p.m. which would include flu shots, hearing tests and other County services.

**b. Beautification Awards**

Mayor Hison presented proclamations recognizing the outstanding efforts made by individuals and businesses in helping to beautify St. Clair Shores to Mike and Eva Joy, 19725 Scarsdale; Justine Manor, 22843 Canterbury; Paul and May Marti, 22470 Marter Road; Ray and Joann Raveau, 28018 Florence; Patrick and Kathy Wilson, 23356 Westbury; Ardmore Park Place, 26717 Little Mack; Barkovic and Malkiewicz, 25805 Harper; El Charro Restaurante Mexicano, 24401 Harper; and Jules Joyner, 22334 Harper. Mayor Hison congratulated all the recipients who received a Beautification Award for 2009.

Lillian Claycomb introduced the members of the Beautification Commission. She stated they are now looking forward to 2010. She thanked Mayor and Council for allowing them to do all that they do. She also thanked members of City staff for their involvement with the Beautification Commission.

**c. Presentation Regarding Veterans Memorial at Veterans Memorial Park**

Mr. Rayes, Community Services Director, reviewed the 5-year Master Plan for Veterans Memorial Park. He explained that the memorials in the park are going to be more noticeable as they have been moved to the center of the park. The plan also calls for a boardwalk from the front gate entrance to the band shell area and it has been completed to the memorial so far. There are 6 flagpoles to be put up along with benches in the memorial area, and some plantings around it. Donations are being solicited. Five of the six flagpoles have been paid for. They are looking for one more flagpole donation. If interested, contact Mr. Rayes at 586-447-3337, or Mr. Esler at 586-445-5350.

Mr. Esler, Parks & Recreation, stated the original monument was erected in 1947 by the Blue Star Mothers in honor of those St. Clair Shores residents who lost their lives during World War II. It still stands with the names of those who served in the armed forces. John Agnello has been the keeper of the monument. The funds raised at this year's World War II Re-enactment Weekend will refurbish the monument and Michael Maniere (who was killed in 1970 in Cambodia) will be added to the monument.

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

Erin Stahl, 20113 Avalon, addressed Agenda Item #8. She stated her concern with retired Police Chief Francis Troester running for City Council; she feels there is a conflict of interest and that he would have to be removed from voting when Council negotiates City union contracts. She noted that she has heard that Mr. Ihrle's legal opinion states there is no conflict.

**4. REQUEST FOR METRO ACT APPROVAL FOR AMERICAN TOWER FOR A DISTRIBUTED ANTENNA SYSTEM (POSTPONED FROM 9/8/09)**

Mr. Rayes explained that American Tower is proposing to install a distributed antenna system (DAS) that runs through Grosse Pointe Woods to southern St. Clair Shores. City Staff has met with American Towers, and they have rerouted the lines along the primary utility poles, as opposed to the street lighting along Marter Road.

Mr. Todd Wells, legal counsel for American Tower, explained that ACT is the global leader in wireless infrastructure outsourcing. It is a public telecom utility in 27 states, including Michigan. In addition, fiber provides a foundation for future data applications and technologies.

**4. REQUEST FOR METRO ACT APPROVAL FOR AMERICAN TOWER cont'd.**

Council questioned where the system would be installed. Mr. Wells replied it would begin at Marter and turn in the rear alley line behind Rosedale on existing poles and then to Marter and Edgewood. It will also go from Morningside across to Colonial Court, a total of 233 feet.

Mr. Wells continued that the total amount of fiber optic cable needed will be approximately 5,500 feet. There will be no new cables or poles. Everything will be done using existing Detroit Edison poles.

Council Member Frederick stated this comes under the Metro Act because it is telecommunications. He asked Mr. Wells if he anticipated any additional fiber optics in the Shores. He replied they don't anticipate any in the Shores. There will be minimal impact to the City.

Mr. Ihrie requested that he be forwarded the permit prior to the execution by the City and that the City be named as an additional insured on their liability insurance prior to permit issuance.

**Motion by Frederick, seconded by Ahearn to approve the request for Metro Act approval for American tower for a distributed antenna system, subject to the City Attorney reviewing the permit, and that the City be added on the Certificate of Insurance as an additional insured.**

Ayes: All – 6  
Absent: McFadyen

**5. REQUEST FROM CITY COUNCIL MEMBERS FOR REVIEW OF THE SNOW REMOVAL ORDINANCE AND POLICY**

Council Member Moffitt noted that he felt the snow removal policy should be complaint driven only, taking care of those problems and then bill them in a timely manner. For vacant homes, the City should let the neighbors call in a complaint and then the City will act on those. The policy should be kept simple not based on number of inches and number of hours to be cleared in.

Council Member Rubello feels the policy should be based on complaints only. The property would have to be grossly neglected. He thinks that a 36-hour notice to the resident is reasonable. The City should have a list of vacant homes so that the snow can be removed in a reasonable time. Council Member Rubello stated he feels there is not enough time to go before the Mayor's Advisory Panel, as they will meet in November, and by that time, it might already be snowing. He added that this problem has been in front of Council since March.

Mayor Hison stated that at the last City Council Meeting (September 8, 2009), there was a motion and support to have the Mayor's Advisory Panel look at this ordinance. He added that it needs to be reviewed in total, and this will occur at the October 2009 Mayor's Advisory Panel Meeting, and will be on the agenda for the City Council Meeting of November 16, 2009.

Council Member Rubello stated the residents need some kind of warning or alert, and didn't understand why this has to wait until November.

Mayor Hison replied the reason this has to wait until November is that there is an upcoming election. Three members of Council are involved in the election. If new Council members are elected, they may not agree with the decision of the present Council.

**6. BIDS/CONTRACTS/PURCHASE ORDERS**

**a. Request to Award Bid for Printing and/or the Distribution of the City Calendar (bids opened 8/4/09)**

Mrs. D'Herde, Communications Director, explained the City advertised for bid proposals for the production and distribution of the City Calendar for 2009 – 2011 in the July 22, 2009 issue of *The Sentinel* and *The Macomb Daily*. The Communications Department also sent out invitations to bid to select printers, including all printing companies located in the City of St. Clair Shores.

The bid proposals were reviewed by the Communications Commission on September 9, 2009. It was recommended that Skip Printing be awarded the package bid price not to exceed \$20,338 (2009) for a 32-page calendar plus the cover, and \$22,281 (2009) for a 36-page calendar plus the cover.

a. **Request to Award Bid for Printing and/or the Distribution of the City Calendar cont'd.**

Package price includes door to door distribution with Target Distribution, L.L.C. while Skip Printing will also monitor distribution.

Mrs. D'Herde added that the Calendar is funded by business sponsorships, and some are still available.

**Motion by Frederick, seconded by Walby to approve the recommendation of the Communications Commission to award the pre-press and printing of the 2009-2011 City Calendar to Skip Printing.**

Ayes: All -6  
Absent: McFadyen

Council Member Walby stated he was very impressed with the quality of the bid package that was sent out and complimented the City Administration.

7. **CONSENT AGENDA**

**Motion by Walby, seconded by Ahearn to approve the Consent Agenda items as presented, which include the following:**

a. **Bills**

September 11, 2009 \$25,395,293.59

To approve and release of checks in the amount of \$25,395,293.59, of the report that is 18 pages in length and of the grand total amount, \$24,189,271.79 went to other taxing authorities.

b. **Fees**

Ihrie & O'Brien \$12,669.00

To approve the above attorney payment to Ihrie & O'Brien subject to audit.

c. **Progress Payments**

Tiseo Brothers, Inc.	\$209,712.59
Pro-Line Asphalt Paving Company	\$181,714.21
Galui Construction Company	\$ 44,340.90
Galui Construction Company	\$ 15,973.11
Galui Construction Company	\$ 9,309.07
FDM Contracting, Inc.	\$ 44,285.12

To approve the above progress payments subject to audit.

d. **Approval of Minutes**

To approve the following minutes:

City Council September 8, 2009

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

To receive and file the following minutes:

<u>Minutes</u>	<u>Meeting Date</u>
Corridor Improvement Authority	August 5, 2009
Cultural Committee	August 12, 2009
Golf Course Committee	August 19, 2008
Golf Course Committee	September 16, 2008
Golf Course Committee	October 21, 2008
Golf Course Committee	November 18, 2008
Golf Course Committee	January 20, 2009
Golf Course Committee	February 17, 2009
Golf Course Committee	April 21, 2009

**7. CONSENT AGENDA cont'd.**

**Building/Property Maintenance Board of Appeals  
Communications Commission  
Cool City Committee**

**August 20, 2009  
May 13, 2009  
August 12, 2009**

**f. To approve the request to purchase City light fixture inventory.**

Ayes: All – 6  
Absent: McFadyen

**8. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING**

- PCB's – Mr. Podolski reported the contractor spent 4 days testing the water at Ten Mile and Jefferson behind Mike's Marine. He added that the treatment system appears to be working well, and are encouraged with the results.
- Mr. Ihrie stated a resident raised questions about a retired City employee running for City Council, and how it appeared to be a conflict of interest. In responding, he stated that none of the provisions of the St. Clair Shores City Council prohibit a retired City employee to run for City Council. Mr. Ihrie responded with the following Legal Opinion (#09-28):

“A resident has requested a legal opinion with respect to St. Clair Shores Charter Provision 10.076, 10.077, and 10.081, as they relate to a retired employee's ability to vote on various issues if elected to City Council. As Council is aware, a retired St. Clair Shores City employee is presently a candidate for City Council for the November 2009 election.

St. Clair Shores Charter section 10.076 deals with elected officers holding other offices and restrictions thereon. Charter section 10.077 pertains to elected appointed offices and disqualifications therefrom. St. Clair Shores Charter provision 10.081 addresses Council meetings and when a councilperson is prohibited from voting with respect to self-interest, including restrictions and regulations.

None of the cited provisions, nor any other provision of the St. Clair Shores City Charter, poses any restraint, obstruction, or prohibition from a retired City employee from running for or being elected to the St Clair Shores City Council.

A retired City employee who is also a City councilperson is subject to the same Charter provisions as any other councilperson who is not a retired City employee. On the rare occasion that an issue may come before Council in which a councilperson has a qualifying financial interest, said councilperson will abstain. This has happened on occasion with various councilpersons who were not former St. Clair Shores City employees. It also could happen with a councilperson who was a previous employee. Such Charter rules and conflict of interest rules apply equally to all councilpersons, regardless of whether they were previous City employees or not. Any issue which may come before Council respecting pension or health care for retirees occurs on an infrequent basis. If such, indeed, does occur, a determination would have to be made as to whether the retired employee/councilperson should abstain. Such determinations are routinely made for all councilpersons who may be asked to vote on an issue on which they may have a financial interest. The St. Clair Shores City Charter recognizes that such issues may arise and make specific and appropriate accommodations for them.

It should be noted that to conclude other than what is stated above would, in effect, create an absolute prohibition on any retired St. Clair Shores employee from being elected to City Council. There is no such prohibition in local, state, or federal law. A retired St. Clair Shores employee has the absolute right to be elected to the St. Clair Shores City Council and, as stated above, would be subject to all provisions of the St. Clair Shores City Charter, the St. Clair Shores Ordinance, and State statutes, as would any non-retired employee councilperson.”

In closing, the City Attorney stated there is no conflict of interest. A retired City employee can vote on any contract just as any other Council member.

- 10 Mile Construction – Mr. Rayes reported that the County is proceeding. They are working on doing concrete base repairs. The asphalt is next, and they are right on target.

## 9. COMMENTS BY INDIVIDUAL COUNCILPERSONS

**Council Member Rubello** stated he has received letters from residents concerned about the number of cars that fit in the turnaround at the corner of Gladstone and 11 Mile Road. Mr. Podolski replied the Traffic Lt. will review this.

Council Member Rubello stated there is an opening in the fence where the playscape is at Gaffke Park, and some residents are concerned about children getting through. Mr. Podolski stated that is the way it was designed and it's the parents' responsibility to watch the children.

Council Member Rubello asked for the current number of vacant homes and has not received an answer yet.

Council Member Rubello stated that recently sidewalk repair vehicles left an oil spot on his driveway, and he requested Mr. Rayes to contact the contractor to ensure their equipment is maintenance so they are not leaving oil stains in resident's driveways and on city streets. .

Council Member Rubello asked if there was any news on the Shores Madrid Theater. Mayor Hison replied the show is owned by Mr. Liggett, and it was approved by Council for a five screen theater. This item went before the Zoning Board of Appeals, and now there are lawsuits involved. The owner had approval to proceed with the five screen theater. Mayor Hison added that it is in their hands now, and he believes the show could have been open all this time.

Council Member Rubello asked if St. Clair Shores has made any strides trying to get the film industry in the City. Mrs. D'Herde replied that Ms. Koto is the liaison with the Michigan Film Industry, and she is working on it.

Council Member Rubello stated that Greater Mack south of 13 Mile Road looks like a tar bomb went off, and the residents want to get the area cleaned up.

**Council Member Moffitt** congratulated the Shorewood Kiwanis on the good job they do.

The Tree of Hope Foundation will be holding a Beer and Wine Silent Auction fundraiser to assist the Tree of Hope Foundation at the Assumption Cultural Center. Admission is \$50.00, and more information can be found on their website: [treeofhopefoundation.org](http://treeofhopefoundation.org). The Foundation can also be reached at 877-HOPE-311.

**Council Member Ahearn** asked the status of the old Gourmet House as he had concerns that children are skateboarding there. Mr. Ihrie replied he is still continuing to work on an agreement with the owner, but he has been authorized to proceed to Circuit Court for demolition.

**Council Member Walby** stated he has been looking for the benches along Harper and the monument at 9 Mile Road and Harper. The sculpture is in the works and so are the benches.

Council Member Walby stated that a lot of dead trees have been removed and the visual aspect at Brys Park has improved and noted this was a good job by City Departments.

Council Member Walby announced that the Women's Civic League Debate would be held at City Hall on October 6, 2009 at 7:00 p.m.

Council Member Walby stated he received an email from a resident on Barton Street who recently paved his driveway. Last year, he was told he did not need a permit and now that the homeowner has improved his property by having his driveway repaved, he has to remove five feet of it because of our ordinance. Council Member Walby stated it is against policy, not the City. Mr. Podolski replied there are other concerns with this issue. A permit was never pulled and the homeowner was aware of it. Council Member Walby stated there is no board of appeals for these residents.

Mr. Ihrie stated there is no appeal in place for ordinances. Mr. Rayes added that our ordinance states the Community Development Department is the arbitrator, and they have approved a number of appeals. The problem is that this owner does not have a reason for wanting the appeal and no hardship.

**Council Member Frederick** announced the Wigs for Kids fundraiser on October 2, 2009, from 6:00 p.m. to 11:00 p.m. at the Barrister Gardens. For more information, call Council Member Frederick at 776-9880.

Congratulations to the Shorewood Kiwanis and Tom Ulrich, the new State Vice-Commander.

**9. COMMENTS BY INDIVIDUAL COUNCILPERSONS con'td.**

Congratulations to the Lac Ste. Clair Art Fair held this past weekend.

Council Member Frederick asked Mr. Rayes where the tar tracks on Harper south of 9 Mile came from. Mr. Rayes replied the tar is from the Harper Woods paving project.

**10. CITY MANAGER'S REPORT – none**

**11. AUDIENCE PARTICIPATION (5 Minute Time Limit)**

Dave Schulz, 22848 Lingeman, stated that Lingeman Street, between Edgewood and Loren, was scheduled to be replaced a long time ago. He was told it would be reconstructed in July and no work has been done on it. Mr. Schulz wants to know when the street will be replaced. Mr. Rayes replied it is scheduled to be done in the fall.

Joe Backus, 21904 Grand Lake, stated he likes to walk Jefferson along 9 Mile and 11 Mile Roads. He stated he has a problem with people walking dogs, picking up poop in a bag, and then leaving the bag. He stated he was taking a walk along the Nautical Mile and found bullets, nuts, bolts, and nails. He stated the City Liaison with Nautical Mile Association should suggest they sweep the curbs.

Mr. Backus stated that sometimes people drive down Blossom Heath Boulevard on the wrong side. It was noted that the stop sign is reversed and the Do Not Enter Sign is worn out.

Joe Penn, 28521 Grant, stated that Gaffke Park looks great. Mr. Penn does not like that the last few street signs were not changed when the rest were done. Mr. Podolski replied the City ran out of the blue signs and when they get more, those streets will be replaced with the new ones.

Mr. Penn asked that the Blight Commission reviews the home at the corner of Martin and Beste.

Jack Downey, 20100 Rosedale, asked when will there be a moratorium on unnecessary expenditures. He does not believe a primary election is needed, with a cost of \$50,000 to taxpayers and feels it should be eliminated.

Chris Vitale, 28701 Grant, stated the driveway ordinance has been the same since the 1950's and all we are doing now is enforcing it. He reminded residents that STRAW will have a Meet the Candidates on September 23, at the Rahi Executive Center, from 7:00 p.m. to 9:00 p.m.

Sue Jesion, 21308 Raymond, stated she is in support of Jack Downey on changing the City Charter to eliminate Primary Elections.

Duane Michno, 21903 Ardmore, stated it was a great weekend in St. Clair Shores. The Art Fair was great, and the Blossom Heath car show was good.

Frank Troester, 22208 Colonial Ct., stated he was a City employee for 31.5 years. He retired as the Chief of Police, and has held every job in the Police Department. He stated he will not apologize for his pension as he has done nothing wrong. There are more important issues at hand.

**12. ADJOURNMENT**

**Motion by Ahearn, seconded by Moffitt to adjourn the meeting at 9:49 p.m.**

Ayes: All – 6  
Absent: McFadyen

(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