

**MINUTES
ST. CLAIR SHORES CITY COUNCIL MEETING
FEBRUARY 7, 2011**

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

Present: Mayor Hison, Council Members Frederick, McFadyen, Rubello, Rubino, Rusie and Walby

Also Present: City Manager Hughes, City Clerk Kotowski, Directors D'Herde, Haney, Koto, Rayes and City Attorney Ihrie

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

Mayor Hison noted that items #7 and #10 were removed from tonight's agenda and rescheduled.

2. PROCLAMATIONS & PRESENTATIONS

Mayor Hison presented the following proclamation to First State Bank.

**PROCLAMATION
to
FIRST STATE BANK**

WHEREAS, the Mayor and Council of the City of St. Clair Shores deem it fitting and proper to publicly acknowledge and honor **FIRST STATE BANK** for their continuous generosity to the residents of the City of St. Clair Shores; and

WHEREAS, **FIRST STATE BANK** was established in 1917 at the corner of 9 Mile and Gratiot as the Halfway Savings Bank, where in 1929 they were renamed **FIRST STATE BANK**, opened their second branch in St. Clair Shores in 1947, and in 1961 opened their third branch in St. Clair Shores on Harper; and

WHEREAS, **FIRST STATE BANK** celebrates 94 years of growth in Macomb County this year and since the beginning, they have been locally owned and operated; with 11 branches in Macomb County and an Operations Center in St. Clair Shores; and

WHEREAS, **FIRST STATE BANK** has demonstrated extraordinary generosity through active involvement and is entitled to recognition for supporting various organizations, community events and charity fundraising, such as the Harper Charity Cruise, June Fest on 9 Mile and Mack, distributed dictionaries to all third graders in St. Clair Shores schools, donated flower bulbs to the Beautification Committee annually, and have been recognized by the St. Clair Shores Beautification Committee as a multiple year Business Beautification Award winner; and

WHEREAS, **FIRST STATE BANK** has been the **lead sponsor** of the City of St. Clair Shores First State Bank Fireworks Extravaganza for three years; and

WHEREAS, **FIRST STATE BANK** truly exemplifies the words Community Bank by showing their commitment to being a good neighbor and continuously working on uplifting the quality of life in our community;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of St. Clair Shores, on behalf of all its citizens, hereby recognize **FIRST STATE BANK** for their generous donations as the lead sponsor of the St. Clair Shores Fireworks, helping the City continue to make this a great place to call home and say a heartfelt "THANK YOU."

Presented this 7th day of February 2011.

2. PROCLAMATIONS & PRESENTATIONS (Cont'd)

Mayor Hison thanked owner, Bill Nill, Kathleen Zenisek, and Brad Cress, from First State Bank for all of their generous donations toward the St. Clair Shores Fireworks. Mr. Nill stated the donations toward the fireworks has turned out to be the most popular thing they have ever done, and he presented Mayor Hison with a check for \$8,000 for the 2011 fireworks.

Mayor Hison asked Mr. Hughes and Mr. Babcock, DPW Director, for some feedback on the recent snow emergencies. Mayor Hison commended all City workers for the good job they have been doing. Mr. Hughes stated that after the snow emergency was finished, there were many water main breaks. He stated that on February 1st, the City declared a snow emergency, but most of the snow came on February 2nd. Even though we didn't get as much as was predicted, it was still a major storm, and City workers did an outstanding job. Mr. Hughes did hear that some residents complained about the snow being pushed into driveway aprons.

Mr. Babcock stated we made it through the storm, and they were able to remove all snow within 48 hours. He stated that DPW personnel worked very hard the last two weeks. Some of the drivers were in trucks for 16 hours straight, which is very difficult. He stated he is very proud of his employees. Mr. Babcock stated he received calls about snow that was plowed into driveways after residents had shoveled them. Unfortunately, it is the only way to plow when there is a snow storm. The speed of the plows is set by the truck to throw the snow onto the grass. Mr. Babcock stated he was asked why the plows drive through the stop signs. He stated that they slow down and yield to make sure it is safe, but the momentum is needed to remove the snow, so they do not come to a complete stop. He added that it is the same with red lights if the plowing convoy has begun to go through it. Mr. Babcock asked residents to be patient when driving around the plows to avoid accidents.

Mayor Hison stated that when snow emergencies are issued, residents are asked to remove their cars from the street. He stated that Grosse Pointe is attempting to double and triple some of their fines because the residents are not working with the City. A Snow Event is when you have two or more inches of snow. Each resident must clear sidewalks within 48 hours. Most of the residents do shovel their sidewalks. If they are not cleared, a service will tag the residence or business and give them another 24 hours to remove the snow. That ordinance that covers this will be reviewed from some of the experiences this winter to see if it can be improved. Mayor Hison added that there has to be a six-inch snowfall for the side streets to be plowed.

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

Jim Goodfellow, St. Clair Shores resident, addressed Item #6, Request for site Plan Approval PC 10-19, for demolition of a portion of existing building and renovations for proposed new carryout restaurant located at 28721 Harper. He stated the building has been vacant for some time, and commended the new owner for making it into a carry out restaurant. Mr. Goodfellow feels he should be allowed to have four tables for waiting customers.

Mr. Goodfellow commended Mr. Babcock and his crew on a good job done with the snow removal.

Chuck Hall, St. Clair Shores resident, addressed Item #14g, Request for approval of the Activities committee recommendation for admission and parking fees for the 2011 Fireworks. Mr. Hall stated he sent out emails asking that this item be removed from the consent agenda. He feels this item should be discussed as a regular agenda item.

Don Lobsinger, St. Clair Shores resident, addressed Item #5, regarding the Memorial Day Parade, and he stated the parade is held to honor and pay tribute to those fallen heroes who pay the supreme sacrifice. Mr. Lobsinger feels last year's parade was desecrated and mocked by a float by the Michigan Round Table. He asked that the Parade Committee not allow the Michigan Round Table to participate in the Parade this year.

Erin Stahl, St. Clair Shores resident, addressed Items #1 and #15. Ms. Stahl told Council Member McFadyen she was glad to see her return to the Council Meetings. She asked to have a discussion regarding an alternate for her in the event she is absent for a length of time in the future.

Ms. Stahl stated she wanted to let residents know that even though former DPW Director Curt Dumas pled guilty to the charges against him, his sentencing was rescheduled to March 9, and she would like to hear Council's opinion on this issue.

4. REQUEST FROM ST. JOAN OF ARC TO HOLD 42ND ANNUAL SPRING FESTIVAL MAY 20 – 22, 2011, AND TO CLOSE SEVERAL STREETS

David Kesner, Chairman of the St. Joan of Arc Festival, stated the request is to hold their 42nd Annual Spring Festival on Church property. He stated that they would like to extend the hours in the Entertainment Tent again this year.

4. REQUEST FROM ST. JOAN OF ARC TO HOLD 42ND ANNUAL SPRING FESTIVAL (Cont'd)

The last two years they tried this and had good results without any complaint. The bands would conclude at 11:30 p.m. each night, as they have in the past. On Sunday night, the midway rides, bingo, and entertainment will all close at 8:00 p.m. The Vegas Room will continue to be open until 1:00 a.m. on Friday and Saturday, and 11:00 p.m. on Sunday. Mr. Kesner informed Council that they have not had any incidences or complaints from the neighbors.

In addition, they are requesting barricades at Greater Mack and Overlake, Goethe and Old Eight Mile Road, Edmunton and Old Eight Mile Road, and Greater Mack and Edmunton. They would also like a waiver for the electrical permit fee.

Motion by Walby, seconded by McFadyen to approve the request for the 42nd Annual Spring Festival May 20-22, 2011, with the following hours: May 20-21 close entertainment tent at 1:00 a.m., bands ending at 11:30 p.m., and may 22 close midway rides, bingo and entertainment at 8:00 p.m.; and approval of barricades at four intersections: Greater Mack and Overlake, Goethe and Old Eight Mile, Edmunton and Old Eight Mile, and Greater Mack and Edmunton, and grant a waiver for the electrical inspection fee.

Ayes: All - 7

5. ST. CLAIR SHORES MEMORIAL DAY PARADE COMMITTEE REQUESTS:

- a. Request from the St. Clair Shores Memorial Day Parade Committee to hold the annual Memorial Day Parade on Jefferson Avenue from 9 Mile to 11 Mile, on May 29, 2011, starting at 1:00 p.m.**

Eleonore Ellero-Groth, and Liesle Travis, Memorial Day Parade Committee, requested permission to hold the annual Memorial Day Parade on Jefferson from 9 Mile to 11 Mile on May 29, 2011. The theme this year is "some gave all". Ms. Ellero-Groth stated the next Committee meeting is February 17, and anyone can attend. The Committee welcomes ideas and input. In addition, some fundraisers are being planned. There will be a Spaghetti Dinner at Assumption Greek Community Center on March 10, from 4:00 to 9:00 p.m. Mr. Dave Coulier, famous comedian will be at Lakeview High School on April 2 to do a live show. The tickets are \$20 for adults, \$10 for students, and under 6 is free. The show begins at 7:00 p.m. Applications for past participants of the Memorial Day Parade can be obtained at City Hall, City Clerk's Office.

It was noted that Council Members Rubello and Rusie are Parade Committee Liaisons.

It was noted that because the Memorial Day Parade is now a Committee of the City, the insurance is covered under the umbrella of the City. Donations for the walk/run can be made out to Sailing Thru the Shores.

Motion by Rubino, seconded by Rusie to approve the request from the St. Clair Shores Memorial Day Parade Committee to hold the 2011 Memorial Day Parade on Sunday, May 29, 2011, on Jefferson Avenue starting at 9 Mile Road to 11 Mile Road at 1:00 p.m., and to approve their placement of temporary signs attached to City signs in right-of-way.

Ayes: All - 7

- b. Request to hold the fifth Annual Sailing Thru the Shores 5k Walk/Run along the Memorial Day Parade Route on May 29, 2011 at noon**

Liesle Travis, Sailing Thru the Shores 5k, stated the scholarship run is planning its 5th annual event in conjunction with the parade. The route is a 3.1 mile out and back course, starting and ending near 11 Mile Road. Last year the run attracted over 300 participants.

Ms. Travis stated they have been able to award over \$6,000 in scholarships. The walk/run begins at noon. Ms. Travis stated that people can also walk, but the runners will be going first. She advised that for more information, you can log onto their website at www.scsfunrun.org.

Mr. Frederick asked how these scholarship funds are tracked; is it through the City like the new Parade Committee. Ms. Ellero - Groth responded they have never reported back to the city. All the funds minus a small reserve for next year's run start up are given out in scholarships.

It was noted that because the Memorial Day Parade is now a Committee of the City, the insurance is covered under the umbrella of the City. Donations for the walk/run can be made out to Sailing Thru the Shores.

5b. Request to hold the fifth Annual Sailing Thru the Shores 5k Walk/Run (Cont'd)

Motion by McFadyen, seconded by Walby to approve the request to hold the fifth Annual Sailing Thru the Shores 4k Walk/Run along the Memorial Day parade Route on May 29, 2011 at noon.

Ayes: All – 7

6. REQUEST FOR SITE PLAN APPROVAL PC 10-19 FOR DEMOLITION OF A PORTION OF EXISTING BUILDING AND RENOVATIONS FOR PROPOSED NEW CARRY-OUT ONLY RESTAURANT AT 28721 HARPER AVENUE, PETITIONER FRANK IVEZAJ

Mr. Frank Ivezaj, and Mr. Joseph Ivezaj, stated they are requesting site plan approval to demolish a portion of the existing building at 28721 Harper, and renovate the remaining portion of the building for a restaurant. The portion of the building that is proposed to be demolished is 1,150 square feet and the remaining portion is 1,513 square feet.

Mr. Ivezaj stated he owns the building and it has been vacant for a long time. He plans to open something similar to a carryout sandwich shop.

Parking plans were discussed. It was noted that based on the gross square footage of the building and restaurant, Mr. Ivezaj would require 28 parking spaces if he wants to have a restaurant with service provided by wait staff. At the present time, he has almost 10 parking spaces. If approved, Mr. Ivezaj would have to get permission from a neighbor for parking, and it must be in writing. A variance from the ZBA for an additional 17 parking spaces would have to be obtained.

Mayor Hison noted that if they are carryout, they meet the zoning requirements of nine parking spaces. He stated he is pleased to see they want to do something with the building. The petitioner agreed that they would be carryout only.

Ms. Koto stated there are currently two buildings with a dividing wall in between them. They plan to eliminate the south end building portion and make significant improvements to the exterior of the other building. She added that the amount of stucco does not meet the overlay zone, but the Planning Commission did approve their request. Their planned hours of operation are from 7 to 3 or 4.

Council asked if there could be two or three tables and chairs for waiting. Ms. Koto replied there can be chairs to wait, but tables are discouraged. Council asked the hours of operation. Mr. Ivezaj replied they will open at 7:00 a.m. and close at 4:00 p.m.

Mr. Rubello stated the current zoning is a B-3. Ms. Koto stated B-3 is the most intense commercial district, and no rezoning was necessary.

Council asked how the City would know if someone was being waited on or served in the restaurant. Ms. Koto replied someone would eventually report it and a violation would be issued.

Motion by Walby, seconded by Rusie to approve the request for site plan approval, 28721 Harper, subject to 1) all mechanical equipment must be screened, 2) engineering drawings for paving, concrete curbs and necessary drainage must be submitted, 3) any exterior lighting shall be shielded from adjacent residences, 4) sod to be installed immediately south of the building, 5) a service walk from the entrance, connecting to the public walk, is to be installed, 6) The petitioner agrees to the condition of carryout only with 2 tables to wait for orders, and no delivery (the requirement to appear before the ZBA for a parking variance is not necessary), 7) Hours of operation will be from 7:00 a.m. to 4:00 p.m., 8) Each statement of intent, promise and/or pledge, made by the petitioner or agent, either orally or in writing, if permitted by Ordinance, shall be binding upon the petitioner and shall be a condition of said site plan approval.

Ayes: All - 7

7. REQUEST FROM SHAMROCK CAB CO. FOR APPROVAL OF AN INCREASE IN TAX METER RATES (RESCHEDULED TO 3/7/11)

This item was removed from the agenda, and rescheduled to the meeting of March 7, 2011.

8. REQUEST FOR ADOPTION OF A RESOLUTION FOR AN EASTPOINTE COURT MAGISTRATE

Mr. Ihrie explained he submitted to Council a proposed Resolution and letter from Eastpointe Judge Carl Gerds with respect to the appointment of a magistrate who will be sitting in the 38th District Court. The letter explains that Judge

8. REQUEST FOR ADOPTION OF A RESOLUTION FOR AN EASTPOINTE COURT MAGISTRATE (Cont'd)

Gerds asked his Court Administrator, Karen Haydett, to be appointed as Magistrate so that she can serve as a Magistrate in Eastpointe. He is requesting that the City of St. Clair Shores pass a Resolution which appoints Karen Haydett as a Magistrate for the 40th District Court so that she may be permanently assigned to the 38th District Court in Eastpointe. She will serve at the pleasure of the judges of the 38th District Court and the 40th District Court.

Mr. Ihrle explained that since 2005, there has been a Magistrate Multiple District Plan in place. He added that Ms. Haydett will not sit as a Magistrate in the 40th District Court, and she will not hear cases originating within the jurisdiction of the 40th District Court unless requested by the Chief Judge of the 40th District Court. Mr. Ihrle stated that Carolyn Povich, 40th District Court Administrator, is in support of this request. The 40th District Court judges have no intent to utilize Ms. Haydett's services. They will appoint her as a purely procedural manner if needed. Mr. Ihrle stated he is in receipt of a signed letter from her and Judge Gerds stating the 38th District Court will be responsible for all of her fees and expenses. The City of St. Clair Shores is held harmless by an agreement signed by Judge Gerds and Karen Haydett.

Mr. Ihrle added that this appointment will have no financial impact to the City of St. Clair Shores or the 40th District Court. She must be appointed by the City Council where she resides.

Karen Haydett, addressed Council stating she was happy to meet them, and agreed with everything that City Attorney Ihrle stated.

Motion by McFadyen, seconded by Frederick, to approve the Resolution Authorizing the Appointment of Karen Haydett as 40th District Court Magistrate, which reads as follows:

WHEREAS, the 40th District Court seeks to appoint Karen Haydett as a non-attorney magistrate for the 40th District Court pursuant to the authority granted in MCL 600.8501 *et seq*;

WHEREAS, the appointment of Karen Haydett as a non-attorney magistrate for the 40th District Court is subject to the approval of the City Council, and

WHEREAS, Karen Haydett is qualified to serve as a non-attorney magistrate for the 40th District Court pursuant to MCL 600.8507 in that she is registered as an elector in the City of St. Clair Shores, County of Macomb, State of Michigan; will serve at the pleasure of the judges of the district court; will take the constitutional oath of office, and will file a performance bond in the amount of \$50,000.00, and

WHEREAS, the 40th District Court Chief Judge is required to submit to the State Court Administrative Office, Region 1, a Local Administrative Order regarding the appointment of Karen Haydett as a non-attorney magistrate, and

WHEREAS, Karen Haydett, once appointed, will also serve as a non-attorney magistrate for the 38th District Court pursuant to a Magistrate Multiple District Plan previously adopted in 2005, and

WHEREAS, on January 11, 2011, the 38th District Court and Karen Haydett executed a letter of agreement regarding said magistrate appointment whereby the 38th District Court and Karen Haydett expressly agreed to hold the 40th District Court and the City of St. Clair Shores harmless from any and all liability and claims which may arise as a result of Karen Haydett's appointment and service as a non-attorney magistrate, and that all compensation and costs incidental to her services as a non-attorney magistrate, if any, will be borne entirely by the 38th District Court.

NOW, THEREFORE IT IS RESOLVED by the City of St. Clair Shores that the appointment of Karen Haydett as a non-attorney magistrate for the 40th District Court is hereby approved and that she shall be authorized to conduct arraignments, set bail or recognizance, and provide for the appointment of counsel, along with any other duties as authorized by law.

Ayes: All - 7

RESOLUTION DECLARED ADOPTED.

**STATE OF MICHIGAN)
) SS:
COUNTY OF MACOMB)**

8. REQUEST FOR ADOPTION OF A RESOLUTION FOR AN EASTPOINTE COURT MAGISTRATE (Cont'd)

I, Mary A. Kotowski, the duly qualified Clerk of the City of St. Clair Shores, Macomb County, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of St. Clair Shores on the 7th day of February, 2011, the original of which is in my office.

Mary A. Kotowski, City Clerk

Ayes: All - 7

9. REQUEST FOR APPROVAL OF THE RIGHT-OF-WAY AGREEMENT WITH NICKE ENTERPRISES, INC., LOCATED AT 25010 HARPER AVENUE (SABBY'S LOUNGE)

Mr. Ihrie explained that he was contacted by Anthony Miserendino regarding his Right-of-Way Agreement with the City of St. Clair Shores. The existing Agreement terminates on April 1, 2011. He has requested to renew his Right-of-Way Agreement for five years. This would make the term from April 1, 2011 to March 31, 2016. The annual fee for renewal of this agreement is \$1,200.

Mrs. McFadyen asked that when the Harper Cruise goes down Harper, has the awning worked out well. Mr. Miserendino replied that it has provided the residents a good place to sit.

Mr. Rubino asked the City Manager if there have been any problems or complaints. Mr. Hughes he is not aware of any problems or complaints.

Mr. Ihrie noted the first agreement was a one year agreement; this is a five year.

Motion by Rubino, seconded by McFadyen to approve the renewal of the Right-of-Way Agreement with Nicke Enterprises, Inc. located at 25010 Harper Avenue, for 5 years beginning April 1, 2011, and terminating April 1, 2016 with two equal annual installments due each year on April 1 and the 2nd payment due by July 1, annually.

Ayes: All - 7

10. REQUEST FOR ADOPTION OF AMENDMENTS TO THE SIGN ORDINANCE (RESCHEDULED TO 2/22/11)

This item was removed from the agenda, and is rescheduled to February 22, 2011.

11. REQUEST FOR APPROVAL FOR AN AMENDMENT TO THE ZONING ORDINANCE FOR RENEWABLE ENERGY AND ELECTRIC VEHICLES

Ms. Koto, City Planner, explained that the City received over \$500,000 in grant funds from the Energy Efficiency and Conservation Block Grant Program. As part of the program, staff hired a consultant to write a plan for the expenditure of funds. Included in the plan was a proposed amendment to the City's ordinances to allow for renewable energy and to encourage the use of renewable energy devices in residential and commercial applications.

Mayor Hison stated that a building permit is required for a wind turbine, and there is a Green Energy Handbook that will be the tool to show people how to transform their home or business into a green zone.

Mr. Rubello asked Ms. Koto where she thought this might go. Ms. Koto replied she is biased because she already has solar panels on her roof. It will be one of the waves of the future, but a wind study needs to be done by the applicant to see if their location would work.

Mr. Rubello asked the noise level of a windmill. Ms. Koto replied it is 55 decibels, similar to a rustling of leaves. He asked if anything had been set up in the city yet. Ms. Koto said nothing has been set up yet. This will be left to the property owner/developer. In addition, the wind study still has to be conducted.

Mr. Hughes stated that we are just being asked to approve the guidelines tonight.

Mr. Frederick asked if we can obtain additional grants if this is approved tonight. Ms. Koto replied it would.

Motion by Frederick, seconded by Rubello to approve the request for approval for an amendment to the Zoning

11. REQUEST FOR APPROVAL FOR AN AMENDMENT TO THE ZONING ORDINANCE FOR RENEWABLE ENERGY AND ELECTRIC VEHICLES (Cont'd)

Ordinance for renewable energy and electric vehicles. (Note: further discussion on this item resulted in a TABLING motion on Page 7)

Mayor Hison stated he feels he does not have enough knowledge about this item to be comfortable approving it. Council Member Walby agreed with him.

Mrs. McFadyen stated she would like to table this item until more information is obtained.

Mr. Rubino stated this is virgin territory and understands everyone's reservations. He added he would agree to table this item.

Ms. Rusie stated she would also like more time to get more information. This could be put on an agenda for a presentation or Study Session. Ms. Koto replied that would not be a problem and she could also get a draft of the guide book.

Mr. Frederick asked if anyone currently living in the City has requested something like this. Ms. Koto replied no one had, but geo-thermal systems and solar panels are allowed currently.

Mr. Frederick stated that we need additional "neighborly" clauses in ordinance.

Motion by Frederick, seconded by Walby to TABLE this item for a future Study Session.

Ayes: All – 7

Ms. Koto added that St. Clair Shores will be the second City in the State to adopt this type of ordinance. Troy was the first, and this ordinance is modeled after theirs.

12. REVIEW OF THE MORATORIUM ON THE LOCATION OF MEDICAL MARIJUANA FACILITIES IN ST. CLAIR SHORES WHICH EXPIRES ON FEBRUARY 12, 2011

Mr. Ihrie explained that he recently attended a legal seminar on the issuance of medical marijuana, and the moratorium presently in place with respect to the issuance of business licenses for medical marijuana dispensaries be extended for an additional 180 days. He added that it is hoped that in the next six months some direction will be provided either legislatively or from the appellate courts that are presently considering issues that have arisen from existing lawsuits.

Council asked what type of building would hold this kind of business. Mr. Ihrie replied that a dispensary could fit into a regular store front like those on Harper.

Motion by McFadyen, seconded by Rubello to approve the adoption of a Resolution to extend the moratorium on the location of medical marijuana facilities in St. Clair Shores for an additional 180 days, which reads as follows:

WHEREAS, on November 4, 2008, Michigan voters approved a ballot initiative that legalized medical marijuana;

WHEREAS, on December 4, 2008, Michigan's medical marijuana law took effect (MCL 333.2641 et seq.);

WHEREAS, the marijuana law required the Michigan Department of Community Health to adopt rules within 120 days;

WHEREAS, on April 4, 2009, rules were adopted to implement the Act;

WHEREAS, there remains a great deal of uncertainty among municipalities as to how best to regulate the dispensing of medical marijuana;

WHEREAS, the City of St. Clair Shores Ordinance and Zoning Codes are silent with regard to the regulation and location of medical marijuana dispensaries;

12. REVIEW OF THE MORATORIUM ON THE LOCATION OF MEDICAL MARIJUANA FACILITIES IN ST. CLAIR SHORES (Cont'd)

WHEREAS, the City of St. Clair Shores has received inquiries regarding the permitting, establishment and/or operation of medical marijuana dispensaries within the City;

WHEREAS, other communities which have permitted the establishment of medical marijuana dispensaries have recognized an increase in crime, such as burglary, robbery and sale of illegal drugs in the areas immediately surrounding such medical marijuana dispensaries;

WHEREAS, in order to address both community and statewide concerns regarding the establishment of medical marijuana dispensaries, it is necessary for the City of St. Clair Shores to study the potential impact such facilities may have on the public health, safety and welfare, and, further, explore how best to regulate the dispensing of medical marijuana, which will require extensive study in terms of possibly amending the zoning ordinance pertaining to land uses as to zoning classifications and other requirements, and

WHEREAS, based on the foregoing, the City Council finds that issuing permits, business licenses or other applicable entitlements providing for the establishment and/or operation of medical marijuana dispensaries, prior to the completion of the City's study of the potential impact of such facilities, poses a current and immediate threat to the public health, safety, and welfare, and that therefore a temporary moratorium on the issuance of such permits, licenses and entitlements is necessary.

NOW, THEREFORE IT IS RESOLVED by the City of St. Clair Shores, as follows:

A. **Initiation of Study of Potential Impact of Medical Marijuana Dispensaries.** Staff is hereby directed to study the potential harmful secondary effects associated with medical marijuana dispensaries and the current and immediate threat such secondary effects pose to the public health, safety and welfare. Staff shall also study possible amendments to the City's Zoning Code related to medical marijuana dispensaries that may mitigate the potential threat to the public health, safety and welfare.

B. **Moratorium Imposed.** For the period commencing on the date of this Resolution, February 7, 2011 and terminating 180 days from the date of this Resolution, August 6, 2011, there shall be no consideration or action taken by the City, its employees, or agents, on a proposal for the establishment of a medical marijuana facility in the City. That during the 180 days moratorium medical marijuana dispensaries shall not be permitted in the City of St. Clair Shores.

Ayes: All - 7

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
) ss.
COUNTY OF MACOMB)

I, Mary A. Kotowski, the duly qualified Clerk of the City of St. Clair Shores, Macomb County, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of St. Clair Shores on the 7th day of February, 2011, the original of which is on file in my office.

Ayes: All - 7

13. BIDS/CONTRACTS/PURCHASE ORDERS

- a. **Request to award bid(s) for Energy Efficiency and Conservation Block Grant energy improvements (bids opened 1/11/2011) postponed from 1/17/2011**

Ms. Koto explained that Energy Audits were conducted in late 2010, and the recommendations from the comprehensive energy audit were used by AEW to create Bid Specifications. The Bid Specs outlined three types of work to be done on City-owned facilities; general construction work, electrical work, and plumbing/mechanical work. The total budget available from the EECBG Program for building improvements is \$344,493.00.

The Specifications outlined for the electrical work include the complete replacement of nearly 1,000 light fixtures and the installation of over 200 light sensors within the DPW buildings, the Library, Police Station, Civic Center, North Fire Station, and South Fire Station. The projected savings for these changes are estimated to be over 300,000 kilowatt

13a. Request to award bid(s) for Energy Efficiency and Conservation Block Grant energy improvements (Cont'd)

hours per year and more than \$27,000 per year. The lowest bidder, Shoreview Electric, proposes to complete this work for \$214,792.00.

The Specifications outlined for the general construction work include minor construction to improve energy efficiency and promote greener behaviors, installation of solar film on many facility windows to assist in regulating interior climate, and the complete replacement of all of the windows at the Police Station. The lowest bidder, Ashor Construction, proposes to complete this work for \$91,379.00.

This work is of the greatest priority to the City because it will yield the highest return on investment. Staff recommends awarding the electrical and construction contracts only, and using the remaining funds to cover the costs of AEW's engineering expenses and any contingencies that may arise.

Mr. Rubino stated he was contacted by a resident who works for a company that provides some of these replacements. That resident stated that some of the specifications did not make sense.

Ms. Koto advised she received the same call and what the caller was referring to turned out to be an exposed light at the Civic Arena, which had been changed.

Ms. Rusie stated she does not think the City Hall Pedestrian and Cyclist Commuter Shower for \$9,359 should be installed. It would not get enough use unless it was also for residents.

Ms. Rusie questioned why the Police Department was receiving new windows. She asked why this building over other buildings. Ms. Koto replied the windows are really bad. It is in bad shape and the return on this investment with energy savings is significant. Mayor Hison stated the Police building was built in the 1950's. They are original windows. You cannot fix the windows by putting a band aid on them, and there is no intention of replacing the building.

Mayor Hison stated he would also like to put a hold on the cyclist shower. Ms. Koto advised she would go back to the contractor as it changes their bid amount. Consensus of Council to hold on this shower.

Mr. Frederick requested that the new lighting for the arena would work timely with the possible new locker room.

Motion by Walby, seconded by Rubino to approve the request to award the electrical bid for Energy Efficiency and Conservation Block Grant energy improvements to Shoreview Electric for \$214,792.00 and Ashor Construction for \$91,379.00, minus the \$9,359.00 for City Hall Pedestrian and Cyclist Commuter Shower.

Ayes: All – 7

b. Request to amend the existing contract with Bestech Energy Systems to assist in writing and submitting utility rebate applications to the City

Ms. Koto stated that as part of the Energy Efficiency and Conservation Block Grant Program, the Energy Efficiency and Conservation Strategy outlined the implementation of a program to track and monitor energy usage. Part of the activity could involve applying for Energy Optimization Incentives from DTE and Consumer's Energy. The company that conducted the City's Energy Audit can provide this service. Staff does not have the expertise or the capacity to undertake these applications. She added that the City could possibly get \$16,000 in rebates just for the lighting alone. The rebates could either go back into the grant money or could be used as a deduction on a DTE bill.

Motion by Walby, seconded by Frederick to approve the request for approval to amend the existing contract with Bestech Energy Systems to expand the scope of services for rebate applications, not to exceed \$4,500.00.

Ayes: All – 7

c. Request to award the bid for 2011 U.P.M. Permanent Pavement Repair Material Contract (bids opened 1/25/2011)

Mr. Babcock, DPW Director, stated that on January 25, 2011, the City received proposals for the 2011 U.P.M.

13c. Request to award the bid for 2011 U.P.M. Permanent Pavement Repair Material Contract (Cont'd)

Permanent Pavement Repair Material (UPM) (cold patch) Contract. The contract consisted of either pick-up or delivery of 10-20 ton loads of UPM up to an estimated 300 tons of material. The contract will remain valid until June 30, 2011. The project was advertised, and two bids were received. Mr. Babcock stated it is his recommendation to award the contract to deliver 10-20 ton loads of UPM to the DPW to Barrett Paving Materials, Inc., 67 Mary Street, Mt. Clemens, MI. By awarding this contract in this manner, the City's Public Works vehicles will save on both the gas and wear on the vehicles of picking up the UPM in New Haven, MI.

Motion by Rubino, seconded by Walby to award the bid for 2011 UPM Permanent Pavement Repair material to Barrett Paving Materials, Inc. through June 30, 2011.

Ayes: All – 7

d. Request for approval of the purchase of Fire Ambulance #4

Fire Chief Morehouse and Mr. Smith stated that in October of 2010, the Fire Department made an operational change to fully operate all three existing ambulances, leaving none in reserve. The activation of this third ambulance has resulted in an additional \$8,000 to \$10,000 of new revenue per month. The purchase of a fourth ambulance to ensure consistent operations is recommended. A total of \$135,000 in proceeds from the sale of the \$1 HUD homes will be used to fund a majority of this purchase. The remaining necessary funds will come from the expense accounts within the 2010-2011 Fire Department Budget.

Mr. Hughes stated that funds for this purchase were not in the budget that Council approved. By moving some line items around in the Fire Department budget, \$65,000 can be used. Mayor Hison added that there are some other options available.

Chief Morehouse explained that the purchase of a new ambulance to currently meet the specifications that are currently being used by the Fire Department is approximately \$225,000 plus \$65,000 to fully equip this ambulance for a total of \$290,000 and needs 180 days lead time. The purchase of a demo ambulance that is close to the specifications that are currently being used by the Fire Department is \$175,000 plus \$65,000 to fully equip this ambulance for a total of \$240,000. This is a 2009 vehicle with over 30,000 miles and the warranty on chassis is near expiration.

The purchase of a re-mount ambulance that is close to the specifications that are currently being used by the Fire Department is a cost of \$129,000, plus \$65,000 to fully equip this ambulance for a total of \$194,000. This is a used Horton patient compartment totally refurbished and remounted on a new 2009 chassis with less than 50 miles on the chassis and is still under full chassis warranty.

Ms. Rusie stated she is unsure about approving the funds for the ambulance without looking at a "menu" of other items the \$1 HUD home proceeds could be spent on. She asked if we purchase a 4th ambulance at this time, will we always have to rely on a "4th" ambulance.

Mr. Rayes noted that this purchase would be an allowable use of the \$1 HUD home proceeds, as it falls under the community development sections.

Mr. Rubello asked how many ambulances the City had when the Fire millage was passed.

As of last October we were running 2 ambulances with the 3rd as a back up vehicle when one was out of service. Assistant City Manager, Mike Smith, replied we had three at that time. We did have a reduced response time with 3 ambulances.

Ms. Rusie noted that if we deny the purchase of a 4th ambulance, we're not denying the residents of any service, as we are maintaining our current services.

There are other area where these funds could be used such as a workout room at the Senior Center, Kyte Monroe improvements, and assisting the fight against blight.

Mr. Hughes stated he understood the views expressed and we do know the broad parameters of HUD spending of the homes revenues. The issue before you is a 4th ambulance purchase is needed before the next fiscal budget year to generate revenues to offset the Fire Department overtime; and options for funding this purchase are the use of the \$1 HUD home revenue, and the fire department budget. The other option is to have the entire purchase come

13d. Request for approval of the purchase of Fire Ambulance #4 (Cont'd)

from the rainy day fund. If revenue projections are correct this purchase should pay for itself within 2 years.

Mr. Rubino stated that with \$120,000 revenues per year to pay for this vehicle and then how soon will you back with the need for an additional new ambulance. Are we buying this ambulance and generating revenues just to pay for the ambulance.

Mr. Rubello stated that this kind of decision needs more time to be discussed. He felt this should be discussed in a Budget Study Session.

Mr. Walby stated they have already put more than \$400,000 back into the Fire Department's overtime budget. If this is approved, there will be another \$200,000 for a total of \$600,000. He added that there is HUD money that can be used for recreational services and playground equipment. We can't keep paying for all of this. The Fire Department's contract needs to be fixed first including the overtime. .

Motion by Walby, seconded by Rusie to table the recommendation of City Administration for the purchase of a 4th Fire Department ambulance.

A roll call vote was taken.

Ayes: Walby, Rusie, Rubello, Rubino

Nays: Frederick, McFadyen, Hison

TABLING MOTION CARRIED**e. Request to award contract for Property, Liability and Worker Compensation Insurance Consulting Services (bids opened 12/21/2010)**

Mr. Hughes explained that proposals were solicited for the consulting service through the MITN procurement system. Five proposals were received. A review committee consisting of Councilwoman Rusie, Ben Hughes, Mike Smith and Tim Haney reviewed the proposals and selected two vendors to interview. After the interviews and consideration of the candidates, the Committee recommends Insurance Audit and Inspection Co. to perform the service of helping the City with insurance renewals this year.

Mr. Rubello asked how much the insurance has dropped over the past couple of years. Mr. Hughes replied about \$400,000, which is significant. He added that this is a 3 year contract, with a renewal period of 2 years.

Mr. Rubello asked why would an outsider be brought in. Mr. Smith replied that there were only two companies that bid last year. This consultant is just that – a consultant. They don't sell their project.

Mr. Rubino stated he hopes that we could do something in house without it turning out like it did last year.

Mr. Hughes stated that last time there was dissatisfaction with how the bid was prepared. He believes he is giving Council the best recommendation.

Motion by Walby, seconded by Rubello to DENY the request to award a contract for property liability insurance.

A roll call vote was taken.

Ayes: Walby, Rubello, McFadyen, Rubino

Nays: Frederick, Rusie, Hison

Denial motion passed.

14. 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.

Motion by Walby, seconded by Frederick to approve items a – c, e, f, separating items d and g, which include the following:**a. Bills**

14. CONSENT AGENDA (Cont'd)

February 7, 2011 \$2,563,411.20

To approve the release of checks in the amount of \$2,195,762.50, of the report that is 21 pages in length and of the grand total amount of \$2,563,411.20, \$747,359.77 went to other taxing authorities.

b. Fees - None

c. Progress Payments

Tiseo Brothers, Inc.	\$ 44,601.98
Tiseo Brothers, Inc.	\$ 20,000.00
Tiseo Brothers, Inc.	\$ 12,000.00
Posen Construction, Inc.	\$114,565.89
Bricco Excavating Co, LLC	\$132,729.56
Blade Action, Inc.	\$ 51,696.00
Galui Construction, Inc.	\$ 20,087.74
Galui Construction, Inc.	\$ 43,428.78
Fontana Construction, Inc.	\$153,447.30
Florence Cement Co.	\$ 12,865.40
Lake County Sewer Company, Inc.	\$156,807.00

To approve the above progress payments, subject to audit.

e. Receive & File Boards, Commissions & Committee Minutes

To receive and file the following minutes:

<u>Minutes</u>	<u>Meeting Date</u>
Activities Committee	December 16, 2010
Brownfield Redevelopment Authority	November 18, 2010
Election Coordinating Committee	November 16, 2009
Fence Arbitration Board	December 15, 2010
General Employee Retiree Health Care Board	November 16, 2010
General Employees' Pension Board	December 21, 2010
Parade Fundraising Sub-Committee	January 25, 2011
Planning Commission	December 14, 2010
Police & Fire Civil Service Commission	October 13, 2010
Police & Fire Pension Board	December 16, 2010
Police & Fire Retiree Health Care Trust Board	December 16, 2010
Sign Arbitration Committee	October 28, 2010
Sign Arbitration Committee	December 2, 2010
Tax Increment Finance Authority	November 18, 2010

f. Request for approval of the renewal of the ECT Contract

Ayes: All – 7

Motion by Frederick, seconded by McFadyen to approve Consent Items d and g, which were separated as follows, noting the correction to Page 3 of the Council Meeting Minutes of January 17, 2011, as noted below:

d. Approval of Minutes

To approve the following minutes:

<u>Minutes</u>	<u>Meeting Date</u>
City Council Study Session	January 10, 2010
City Council Meeting	January 17, 2011
City Council Special Meeting	January 21, 2011

Correction to January 17, 2011 minutes Page 3, paragraph 3, 2nd sentence to include the following: "Proposal 2 deals with staffing as people employed in the Department, and not the day-to-day staffing or

14. CONSENT AGENDA (Cont'd)

overtime. Bringing Proposal 2 into a discussion on overtime muddies the water because what Proposal 2 obligates and mandates does not involve overtime.”

g. Request for approval of the Activities Committee recommendation for admission and parking fees for the 2011 Fireworks

Setting a \$2.00 admission fee for residents and non-residents for the Fireworks, and a \$5.00 parking fee in Veterans Memorial Parking Lot for the 2011 Fireworks.

Ayes: All – 7

15. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING

- **PCB's** – Mr. Hughes stated there is no new information.
- **Harper Water Main and Street Lighting** – Mr. Rayes stated there are two bores left to do, and the last cap near Masonic and Harper.

16. COMMENTS BY INDIVIDUAL COUNCILPERSONS

Council Member Rubino stated the roads in St. Clair Shores were cleared better than any others in the area from the recent snowstorm. He also gave kudos to the County for taking care of their roads. Mr. Rubino commended Mr. Babcock, DPW Director, on his department and the recent snow accruals.

Mr. Rubino stated that at the last meeting, Mr. Kelly seemed frustrated with our budgets. He stated he agrees with him 100% on one hand, but doesn't agree with all of his ideas. Hopefully, things will get settled at the budget hearings. He added that the Police Department is staggering shifts.

Council Member Rusie stated the City purchased some Macomb County properties a while ago, and she is interested in getting some updates at the next meeting.

Ms. Rusie announced that Thursday, February 10, 2011, is the first anniversary of the City's Facebook Page. The page has made over ~~300,000~~ **6,000*** friends in the last year (**correction made at the February 22, 2011 meeting*).

Ms. Rusie wished her dad a happy 50th birthday, and a happy anniversary to both her mom and dad for their ~~50th~~ **30th*** wedding anniversary (**correction made at the February 22, 2011 meeting*).

Council Member McFadyen stated that this has been an expounding meeting. There has been a lot of productivity.

Council Member Walby stated he answered Mr. Kelly's questions about the library – closing the library would have no savings because it's a self supporting millage. He stated the pool is a loss. The pool expenses are \$265,000 for 2011, and it will bring in about \$115,000 in revenue. It costs approximately \$150,000 to operate the pool.

Council Member Frederick asked Mr. Rayes if he knew what the building on the corner of California and Harper was going to be. Mr. Rayes replied it will be a type of diner style restaurant.

Mr. Frederick stated that if someone is looking into moving into St. Clair Shores, Facebook is the 1st impression of the City.

Mr. Frederick asked about the water meter situation on Eagle Pointe. Mr. Hughes replied he will get answers.

Mr. Frederick announced that both baseball leagues are accepting applications. Call 445-5350 for more information.

Mr. Frederick stated that sometimes we beat good ideas down before they can be deliberated.

Council Member Rubello stated the Dog Park keyfobs expired on December 31, 2010. They can be renewed at Parks and Recreation. They are \$20 for residents and \$30 for non-residents.

Mr. Rubello asked Mr. Hughes if he had spoken with Madison Heights and Eastpointe about budget ideas. Mr. Hughes replied he had spoken with Eastpointe, but not Madison Heights.

16. COMMENTS BY INDIVIDUAL COUNCILPERSONS (Cont'd)

Mr. Rubello asked how much does it cost the City to plow residential streets. Mr. Hughes replied it costs \$48,000 to salt. In addition, there is the driver overtime, fuel, etc. St. Clair Shores has 220 miles of streets, and there is never enough money budgeted to clear streets ever time it snows.

Mr. Rubello stated that potholes on Harper are the responsibility of the Macomb County Department of Road. Cold patch is a temporary fix. Hot patch when temperatures are over 55 is much better.

Mr. Rubello advised Parade Committee members to put up Dave Coulier's poster for the Memorial Day Parade. He stated he is selling \$2.00 stickers and the proceeds will go to the Memorial Day Parade.

17. CITY MANAGER'S REPORT

Mr. Hughes announced the next City Council meeting will be on Tuesday, February 22, 2011, because of Monday being a Holiday. Also, there is a Budge Meeting scheduled for Saturday, February 12, at 8:00 a.m. at the Golf Course.

18. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT)

Joe Backus, St. Clair Shores resident, stated he is against the proposed gas station at Kroger. He stated it is not a good idea for a gas station to be across the street from St. Mary's Nursing Home. He added that 9 Mile Road has enough gas stations, and he would like Council to vote no on the gas station at Kroger.

Mr. and Mrs. Watkins stated their yellow Labrador Retriever named Maple has been missing since January 27th. He needs daily heart medication and they fear that something has happened to him. They asked that is someone has found him and have him in their home, please contact them at 586-381-4009.

Jack Doerr, St. Clair Shores resident spoke regarding the generators that Ms. Koto talked about. He also addressed Council about the parking fees for the fireworks.

Chester Landis, resident of St. Clair Shores, and a resident since 1952, stated that since he has lived here, there were two occasions when he had to call the police. It's been a very long time, but he stated he is proud of the St. Clair Shores Police Department.

Chuck Hall, St. Clair Shores resident, stated he saw Ms. Koto's presentation. He also advised that the corner of Marter and Jefferson has eight holes at the saw cuts.

Donald Lobsinger, resident of St. Clair Shores, spoke about Martin Luther King.

James Kelly, resident of St. Clair Shores, spoke about the 4th ambulance for the Fire Department should not be purchased from the rainy day fund. He also stated residents have to stop shoveling snow in the street after the plows go through. Mr. Kelly thanked the DPW workers for fixing the water main that broke by his house. He asked if the City is going to do anything about replacing some of the old water mains. Mayor Hison replied that issue is being reviewed.

19. REQUEST TO ENTER CLOSED SESSION AS PERMITTED BY STATE STATUTE MCLA 15.268, SECTION 8 (C)

Motion by Walby, seconded by Frederick to enter Closed Session as permitted by State Statute MCLA 15.268 Section 8(c) at 11:44 p.m.

A roll call vote was taken.

Ayes: All - 7

Motion by Walby, seconded by Rubino to return to Open Session at 11:55 p.m.

Ayes: All - 7

Discussion was held on the upcoming budget process.

20. ADJOURNMENT

Mayor Hison adjourned the meeting at 12:06 a.m.

ROBERT A HISON, MAYOR

MARY A. KOTOWSKI, CITY CLERK