

**MINUTES
ST. CLAIR SHORES CITY COUNCIL MEETING
FEBRUARY 22, 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 Rubello, Rubino, Rusie and Walby

Absent & Excused: Council Members Frederick and McFadyen

Also Present: City Manager Hughes, Acting Deputy City Clerk Brown, Directors D'Herde, Koto, Rayes and City Attorney Ihrle

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

Mayor Hison called the meeting to order at 7:00 p.m. Ms. Brown, Acting Deputy City Clerk, called the roll with a quorum present and noted that Mr. Frederick and Ms. McFadyen asked to be excused. The Pledge of Allegiance was recited by those in attendance.

Motion by Walby, seconded by Rubino to excuse Mr. Frederick and Ms. McFadyen from tonight's meeting.

Ayes: All – 5

Absent: Frederick, McFadyen

Mayor Hison stated that agenda items 5, 6, 8 and 9 have been rescheduled to the March 7, 2011 meeting.

He added that two Council Members are absent and any approval requires four votes, with the exception of item 4a, Kroger's rezoning. The City received and validated protest petitions for this item and under State statute, this requires 2/3 majority or five votes for approval.

Mayor Hison asked that if any petitioners would like to postpone their request. He will give an opportunity to the ones not present to postpone as their item comes forward.

Mayor Hison talked about the recent 8" to 10" inches of snow and thanked the DPW crew and Mr. Bryan Babcock for their hard work.

Mr. Hughes noted that a Snow Emergency was called at midnight on Sunday and a Snow Event was called Monday morning at 8:00 a.m. The crews focused on clearing the main roads on Sunday and Monday and then followed with the residential streets. A great example of different departments working together took place during this storm; the Parks and Recreation employees and the Animal Control officer were out plowing the streets. Mr. Hughes asked for understanding from the residents regarding snow placed off the streets onto people's driveways. He explained that plows have to go a certain speed to lift off so many inches of snow.

Mayor Hison announced that the next Mayor's Corner will take place at the Department of Public Works to show how the crews get ready for work. He commended the employees for their long hours of work.

2. PROCLAMATIONS & PRESENTATIONS

a. Kennedy Middle School 7th Grade Girls Basketball Team

Mayor Hison presented the Kennedy Middle School 7th grade girls Basketball team the following proclamation:

**PROCLAMATION
to
KENNEDY MIDDLE SCHOOL
7th GRADE GIRLS BASKETBALL TEAM**

WHEREAS, the Mayor and Council of the City of St. Clair Shores deem it fitting and proper to congratulate and recognize the **Kennedy Middle School 7th Grade Girls Basketball Team** for an outstanding basketball season; and

WHEREAS, the **Clippers** finished their 2010 season with an outstanding league record of 12 – 0, which makes them the first team in 20 years to be undefeated and honored as the League Champs; and

2a. Kennedy Middle School 7th Grade Girls Basketball Team Proclamation cont'd.

WHEREAS, with a perfect, no loss season, the **Clippers** demonstrated hard work, determination and true team spirit; and

The Team members are:

Captains:
Ashley Romanowski
Autumn Wojnowski

Jayne Mason
Mychelle Mason
Isabel Mata
Jocelyn McCormick
Sam Pellerito
Emily Samolej

Allie Shorkey
Cheyenne Smigiel
Kennedy Vigliotti
Julia Wood

Team Members:
Paige Hanke
Julia Harms

Coach:
Cris Belanger

WHEREAS, the girls have displayed hard work and good sportsmanship putting in countless hours of practice, and have grown in character and skills;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of St. Clair Shores extend congratulations to the undefeated **Kennedy Middle School 7th Grade Girls Basketball Team**, and wish them continued success in all their future competitions.

Presented this 22nd day of February 2011.

Ms. Cris Belanger thanked Mayor and Council for the recognition and talked about their fantastic season. She is very proud of the wonderful group of girls she had the pleasure coaching. The two captains, Ashley Romanowski and Autumn Wojnowski, congratulated the team and thanked them for playing hard.

b. Megan McSeveney and Colleen Moynihan, EPA update regarding the Ten Mile Lange Canal

Mr. Hughes stated the PCB issue has been designated as a superfund problem which provides federal funding for the clean up. Two EPA employees from the Chicago office have been assigned to this case and are here to give an update.

Ms. Colleen Moynihan, Project Manager, and Ms. Megan McSeveney, Community Involvement Coordinator, talked about sampling activates planned for April and May of 2011, weather permitting. EPA has been working with the City, County and State to review the sampling plans. The objective is to find the source and to confirm suspicions that PCBs are traveling through the utility corridors at Bon Brae and Harper. Sampling will take place within the trench of the drain and within the utility lines. This will take 4 to 6 weeks to complete and the EPA is happy to announce that they will be using a mobile lab with a 24 hour turnover to fuel the investigation. The EPA will host an open house at the end of March to answer any questions the residents might have about the testing.

Ms. Moynihan added that monthly samples have been collected from the installed weirs and it was found that six weirs have oil trapped behind them. This indicates that the drain has been re-contaminated and the EPA is proposing a plan to come back quarterly and take out contaminants so the PCB's do not travel.

Ms. Moynihan discussed the removal plan through the remediation program. They have the ability and authority to come out sooner than EPA for removal.

Mayor Hison thanked Ms. Moynihan and Ms. McSeveney for their time and explained that the City is looking for the root cause to be able to come up with a solution.

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

Jim Goodfellow, St. Clair Shores resident, agenda items 10 and 4. Mr. Goodfellow would like to see a list of complete costs for all the NSP homes. He inquired why the Kroger public meeting was not posted for the residents to attend. He suggested moving the pumps on the Kroger's property lined up with their pharmacy. Mr. Goodfellow noted there is not enough room for a gas station on the proposed site.

Steve Beynoun, St. Clair Shores resident, agenda item 4. Mr. Beynoun is the owner of the nearby Shell gas station. He opposes to the proposed gas station because he believes it is unfair competition. Mr. Beynoun stated he spent over \$200,000 remodeling the place and another \$18,000 to participate in the Kroger points program.

Dan Bott, St. Clair Shores resident, agenda item 4. Mr. Bott talked about big conglomerates putting out of business small businesses. He is against the Kroger gas station because he believes there is not enough room.

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

James Calin, St. Clair Shores resident, agenda item 4. Mr. Calin raised his concerns regarding the traffic the new gas station would create. He is one of the property owners abutting the proposed location and he is concerned with the smell of gas, the eyesore and his property value decreasing.

Elizabeth Anderson, St. Clair Shores resident, agenda item 4. Ms. Anderson stated there are nine gas stations within 1.5 miles of the subject location. She noted that the proposed gas station would be servicing three different Kroger stores in the area. Ms. Anderson was concerned with cars pulling out of three driveways.

John Dewald, Grosse Pointe resident, agenda item 4. Mr. Dewald has been a commercial realtor for over 30 years in St. Clair Shores and has been working with Kroger on this project. He discussed the history of the proposed piece of land and noted that two other developers were interested in the property but could not pull through financially. Kroger presented their plan before the Planning Commission and addressed the residents' concerns at a town hall meeting in January. Residents within 500 feet of the proposed gas station were invited.

Steven Scavone, St. Clair Shores resident, agenda item 4. Mr. Scavone voiced his opposition to the proposed gas station and listed the questions suggested by the Michigan Society of Planning.

Mike Descamps, St. Clair Shores resident, agenda item 4. Mr. Descamps, Chair of the Planning Commission, discussed the Planning Commission process. He added that historically, there have been undesirable developments on the subject property and if commercial development keeps being turned down, the City ends up with abandoned buildings.

Mayor Hison thanked Ms. Brown for her help with the agenda.

4. REQUESTS FOR PLANNING COMMISSION CASES PC 10-13 AND 13A, AT 22500 NINE MILE ROAD, PETITIONER KROGER CORPORATION

a. Rezoning PC 10-13 Part of Lots 1, 32, 33 and 34 of Fresards Lake Subdivision, as recorded in Liber 3 of Plats Page 189, Macomb County Records, from B-1 Local Business District to B-3 General Business District, at 22430, 22500, and 22504 Nine Mile Road

Mr. Rick Ragsdale, Senior Real Estate Manager of Kroger Co. of Michigan, stated that Kroger has 134 stores in Michigan and 38 field stations. They employ 166 St. Clair Shores residents and provide over 400 jobs at the three St. Clair Shores locations. In 2007, Kroger purchased 19 stores from the former Farmer Jack (proposed location being one of them) and in 2009 remodeled the store at a cost of over \$4,000,000 and bought the fee interest in the property.

Mr. Ragsdale stated they've respectfully asked to withdraw their request from the January 3, 2011 meeting because the traffic study was not complete. He added that an in-store petition was done for the company, and received over 575 signatures in support of a gas station.

Kroger met with the neighbors on January 27, 2011 to address several items. Kroger mailed notices to residents within 500 feet. Store management was in attendance and addressed different issues that were brought up with the existing store. Mr. Ragsdale stated the gas station would be complimentary to the Kroger store and assured the audience that in building the project, Kroger will remain good neighbors.

Mr. Ragsdale pointed out that other sites are highly contaminated and Kroger has no interest in buying contaminated properties. They have tested the ground thoroughly on the subject location and concluded that the ground was clean to proceed with development.

Mr. Arthur Kainz, former Real Estate VP for Farmer Jack, stated the property in question was owned by Farmer Jack. They planned to expand in the late 80s to early 90s but did not go forth and sold the property to the adjacent business. He mentioned that Kroger has heavily invested in the City of St. Clair Shores, especially at the subject location.

Mr. Mark Basile, owner of proposed property, stated they have bought the property with plans to expand their adjacent medical device company. He added that Kroger has been a good neighbor to his business and thought this would be a good idea for the City.

Mr. Jack Knowles, Vice President of Dietrich, Bailey and Associates, described the proposed rezoning of the four parcels from a B-1 Local Business to a B-3 General Business District. Mr. Knowles stated that it is not unusual in this community to have a B-3 district abut residential properties; a good example being the actual Kroger store, McDonalds and the Amvets. The proposed rezoning would be an extension of the existing B-3 zoning of the store. It is consistent with the existing pattern on land use and it can be harmonious.

4. REQUESTS FOR PLANNING COMMISSION CASES PC 10-13 AND 13A, AT 22500 NINE MILE ROAD, PETITIONER KROGER CORPORATION cont'd.

Mr. Knowles portrayed the proposed design of the gas station. He stated that Kroger is sensitive to the neighbors and would like to address the visual issue by planting 18 evergreen trees, 8' to 14' in height, and a tall screen wall; this would provide a substantial green buffer. Additionally, substantial landscape will be installed on Alice and 9 Mile. Hours of operation would be from 6:00 a.m. to 10:00 p.m. with an operator only kiosk. Kroger uses fiber glass double wall tanks and proposes all flushed lighting.

Patrick Maher, traffic engineer consultant, stated that based on the design and the capacity of the proposed property, the level of service remains the same at "B". Mr. Maher defined the different levels of service as follows: A – free flow traffic conditions; B – stable flow with few restrictions in movement; C – stable flow but movements are restricted by other vehicles; D – high density but stable flow of traffic with some restrictions; E – at or near capacity of roadway, unstable flow with severe restrictions to maneuver; and F – forced flow with stop and go conditions. He added that approximately 43% of the traffic utilizing the new site can be considered pass-by traffic.

9 Mile Road carries 11,080 vehicles per day and it is estimated that the proposed gas station will generate an additional 1,348 vehicles (674 in and 674 out) per day. Based on information gathered from other Kroger gas stations, the proposed location would generate about 700 vehicle users per day. According to the study, the gas station will have minimal impact to the traffic on 9 Mile and Alice.

Mayor Hison clarified that Kroger's intention was to meet with the residents. To notify the residents, they've used the same 500 foot rule that the City uses for notices.

Ms. Rusie raised her concerns regarding the identified benefits of having a Kroger gas station. She did not find the benefits compelling to justify the proposed rezoning. She argued that discounted gas does not justify forcing a neighborhood of residents to live 24/7 with the construction of a gas station operating basically in their back yards. Another suggested benefit was that the parcel is home to abandoned buildings, so a gas station would be an improvement. Although something is always better than nothing, Ms. Rusie stated a gas station is a very specific kind of business with very specific problems not associated with any other business. In addition, the gas station may raise property value on its specific parcel, but most likely, it will decrease the property values of the nearby residents.

Ms. Rusie questioned if the City is enforcing the blight ordinance against this parcel.

Regarding the comments made about Kroger's investments in St. Clair Shores, Ms. Rusie argued that by putting forth such argument it follows the mentality of "pay for play" and that is not the government's function. This is what makes the City look business unfriendly – that in order to get some special approval from Council, a business has to invest millions of dollars into the City first. She stated that Kroger has been a good neighbor to the Shores and to its residents, but she stated she treats Kroger as any other petitioner making this request. Moreover, the residents have been good to Kroger. They make their stores profitable and if Kroger was unprofitable, they wouldn't be here.

Ms. Rusie stated that comments were made that Kroger gas stations are well kept properties. Businesses are supposed to be well kept to follow the City's ordinances and to attract customers. Most importantly, a well kept gas station has the same problems associated with any other gas station (bright lights, odors, traffic increase, noise, environmental concerns). The gas station approved on 13 Mile does not back up a residential neighborhood and if this was proposed at a different location, she would consider it with fresh eyes. But for this subject location, the lot is too small and it makes poor planning sense.

Ms. Rusie continued that the request is to rezone a property for a gas station that is not meant for a gas station. The question before Council is, should we dedicate more land for gas stations against the Master Plan?

Ms. Rusie responded to the unfair competition comments. She noted that it's not the government's place to prevent competition.

Ms. Rusie stated that every single thing that is presented before Council must be considered on two levels: a micro level and a macro level. She defined the micro level as the impact on those who will be directly affected the most and the macro level being the effects to the City and all its residents as a whole. She added that all the benefits to the macro level that she spoke of, do not outweigh all the negatives to the residents on Liberty and rezoning the parcel to B-3.

Ms. Rusie added that the residents do not want a gas station in their backyards which will traumatize their neighborhood. She concluded that given this parcel's size, its proximity to residents and everything else she stated,

4. REQUESTS FOR PLANNING COMMISSION CASES PC 10-13 AND 13A, AT 22500 NINE MILE ROAD, PETITIONER KROGER CORPORATION cont'd.

including the overall Master Plan of the City, Council has a legitimate interest in denying the rezoning request; the refusal would neither be arbitrary or capricious because of the much plausible basis for denial.

Ms. Koto explained that B-1 is the Local Business District intended to accommodate various types of office, retail and service establishments. On the other hand, B-3 is the General Business District for businesses that cater primarily to the comparison shopping needs of the City and the surrounding communities.

Mr. Rubello inquired about Kroger's competition and whether they sell below cost. Mr. Ricksdale replied that their primary business is selling food; the gas stations are complimentary to their service providing incentives for customers who shop at Kroger.

Mr. Rubello quoted the Master Plan, page 26, where it clearly stated that the residents of St. Clair Shores do not want any more gas stations, drugs stores, or similar facilities.

Mayor Hison stated the Planning Commission and the Community Development Department reviewed the Master Plan and recommended approving the rezoning. When looking at the economy and the drastic cuts from federal and state dollars, we need development. And if there is no development, the City ends up with vacant properties for which we are always criticized. In addition, Kroger has gone through many different plans to work with the residents.

Mr. Ihrie explained that the State statute requires a 2/3 majority because of the protest petitions; however, it does not require super majority to deny the case.

Mr. Rubino noted that a gas station would look a lot better than the sore spot currently there, but the residents have a right to let Council know what they want and they have done so by voicing their opposition to the proposed gas station.

Mr. Rubello requested the Community Development Department to find well-matched development for the 9 Mile and Alice vacant property.

Motion by Rusie, seconded by Walby to DENY a request for rezoning from B-1 Local Business district to B-3 General Business District, at 22430, 22500 and 22504 Nine Mile Road for the reasons stated above, and given this parcel's size and proximity to residents, including our overall Master Plan these are legitimate reasons for denying this rezoning request.

Ayes: All – 4

Nay: Hison

Absent: Frederick, McFadyen

Motion carried.

Mayor Hison stated that due to a denied rezoning, item 4b is not a question for approval.

b. Site Plan Approval PC 10-13A for new gas station and convenience kiosk, at 22500 Nine Mile Road

5. REQUEST FOR APPROVAL FOR A NEW 2011 CLASS C LIQUOR LICENSE (NON QUOTA) AT 26717 LITTLE MACK, PETITIONER ARDMORE CAFE, LLC (rescheduled to 3/7/11)

6. REQUEST TO APPROVE A SITE PLAN AMENDMENT TO ALLOW BANNER TIRE TO POST "FOR SALE SIGNS" IN VEHICLES, AT THEIR 23418 HARPER AVENUE LOCATION (rescheduled to 3/7/11)

7. REQUEST FROM PAT O'BRIEN'S TAVERN, 22385 10 MILE ROAD, TO HOLD ST. PATRICK'S DAY PARTY ON MARCH 17, 2011 FROM 7:00 A.M. TO 2:00 A.M. WITH OUTSIDE TENT AND ENTERTAINMENT ENDING AT MIDNIGHT

Mayor Hison informed the petitioners for agenda item #7 to speak with the City Attorney before presenting their request to City Council.

Item was taken out of order, see page 9.

8. REQUEST FOR RENEWAL TO EXTEND BUSINESS HOURS TO 24 HOUR OPERATION FOR YOUR TIME FITNESS, AT NEW LOCATION, 23707 JEFFERSON AVENUE (rescheduled to 3/7/11)
9. REQUEST FOR ADOPTION OF AMENDMENTS TO THE SIGN ORDINANCE (rescheduled to 3/7/11)
10. REQUEST TO APPROVE THE SALE OF NSP HOMES

Ms. Koto stated the NSP Homes are almost completed. With the exception of a few punch list items on the interiors of some homes and a list of items to be completed on the exterior in the spring, the homes are in move-in condition. After two open houses in January, the City has received a total of 14 offers on 8 of the 9 available homes.

Washers and dryers will be installed in all homes prior to any purchaser closing on the homes. Purchasers will receive an allocation to buy the kitchen appliances. If they want premium appliances, they will have to pay the difference.

Ms. Koto mentioned that 21907 Colony received one bid and at first, it seemed that the person did not qualify. Additional information was received from MSHDA who stated they will work with the individual to approve a mortgage for them.

The proceeds from the sales of the homes can either be returned to MSHDA or continue with the program and acquire additional homes. The money can not be used for anything else including demolition of other homes.

All potential purchasers provided pre-approvals. Ms. Koto stated she will confirm with MSHDA in regards to covering buyer closing costs.

20011 Avalon

The list price for this home was \$74,900. The City received one bid for the list price, which is higher than the appraised value. The total development cost is \$113,436.

Ms. Rusie pointed out the purchase agreement has a closing date of March 25, 2011 but void agreement is 60 days.

Mr. Frank Houtekker, John Adams Mortgage, stated that when the agreements were conceived, a lot of things were yet to be determined. For this particular home, the buyer is flexible with the closing date and the date can certainly be solidified in the purchase agreement.

Ms. Koto clarified that approval can be made contingent to the changes mentioned by Council. This would go back to the buyer as a counter offer.

Ms. Rusie asked to clean up the language in the purchase agreement to add "up to" 6% concessions for the buyer's closing costs.

Mr. Houtekker responded that typically it is understood transactionally that the portion that falls short of the 6% goes back to the seller. The "up to" can be added to all purchase agreements.

Mr. Rubello asked for an explanation of the NSP program. Ms. Koto explained that the intent of the program is to stabilize neighborhoods by purchasing vacant/foreclosed homes to rehabilitate and sell to people based on income factors. The income factors are higher than the HUD program to provide a larger pool of people. The money used for the program are federal tax dollars to make the neighborhood look better and to bring new people to the Shores.

Mr. Walby stated that Council was made aware of how the program works and that rehabilitation costs would exceed the net income from these homes.

Ms. Rusie stated she has been against the NSP program but will be approving the sales of the homes so we can move forward.

Motion by Walby, seconded by Rubello to approve the sale of the NSP Home at 20011 Avalon to Client Identifier D for \$74,900, contingent to clarifying the closing date in the purchase agreement and adding "up to" 6% concessions for the buyer's closing costs.

Ayes: All – 5
Absent: Frederick, McFadyen

10. REQUEST TO APPROVE THE SALE OF NSP HOMES cont'd.

20315 Avalon

Ms. Koto stated this has been the most popular home because of the eat-in kitchen area. The list price was \$84,900. Five bids were received with the highest bid at \$85,900.

Total rehabilitation cost is \$161,173.

Ms. Rusie inquired about the bid process for these homes.

Ms. Koto stated the City did not release any information and the realtors kept the numbers confidential just like they would with any other multiple offer listing.

Mr. Eric Goosen, Real Estate One, stated that all buyers were made aware that there are multiple offers and to make their highest and best offer. He added that everything was kept confidential.

Motion by Walby, seconded by Rubino to approve the sale of the NSP Home at 20315 Avalon to Client Identifier H for \$85,900.

Ayes: All – 5

Absent: Frederick, McFadyen

20319 Avalon

Ms. Koto stated the house had to be demolished and the garage was moved to 20315 Avalon. The list price was \$104,900 and one bid was received for \$100,000. The development cost is \$161,729.

Ms. Koto noted the individual is possibly over the income limit. There is a special multiplier for people who earn overtime; MSHDA confirmed that the individual does qualify.

Mayor Hison met with the neighbors of these homes during the open house and noted how surprised they were with the end product. He added that these homes will bring in additional tax revenue.

Motion by Walby, seconded by Rubino to approve the sale of the NSP Home at 20319 Avalon to Client Identifier M for \$100,000.

Ayes: All – 5

Absent: Frederick, McFadyen

22655 Carolina

The list price for this home was \$109,900 and the City received one bid for \$100,000. Total development cost is \$157,278.

Ms. Rusie pointed out there is no dollar amount for the seller concessions. Mr. Houtekkie stated that the language can reflect "up to 6%".

Motion by Rubino, seconded by Walby to approve the sale of the NSP Home at 22655 Carolina to Client Identifier K for \$100,000, contingent to adding the language "up to" 6% concessions for the buyer's closing costs in the purchase agreement.

Ayes: All – 5

Absent: Frederick, McFadyen

21907 Colony

The home was listed for \$80,000 and the City received one bid for \$70,000. The purchaser exceeds the maximum affordable income which is 29% of gross income. MSHDA is willing to go higher than the 29% if the individual does not carry significant debt to create a mortgage packet for the potential purchaser.

The development cost of this home is \$159,982.

Ms. Rusie stated the purchase agreement talks about a conventional mortgage but it has an FHA addendum.

10. REQUEST TO APPROVE THE SALE OF NSP HOMES cont'd.

21907 Colony

It was explained that the offer was presented this way, but it's just a mix of terminology. None of the NSP homes can be sold conventionally, they need FHA mortgages.

Ms. Rusie asked for a cap dollar amount in the purchase agreement for repairs.

Motion by Walby, seconded by Rubino to approve the sale of the NSP Home at 21907 Colony to Client Identifier E for \$70,000 contingent to MSHDA's approval and subject to clarifying in the purchase agreement the use of a FHA mortgage and capping the payment for repairs at \$200.

Ayes: All – 5

Absent: Frederick, McFadyen

20009 Rosedale

Ms. Koto stated the home has not been completed because of the weather. The City will hold a portion of the contractor's payment until all items are completed. The development cost totals \$125,317 and this amount includes the outstanding punch list items.

The list price for the home was \$75,000 and one bid was received for \$74,900.

Ms. Rusie noted the appliances line in the purchase agreement is blank. Ms. Koto explained that the homes are required by MSHDA to have appliances; it can be added to the language on the purchase agreement.

Motion by Rubello, seconded by Walby to approve the sale of the NSP Home at 20009 Rosedale to Client Identifier C for \$74,900, including the appliances in the purchase agreement.

Ayes: All – 5

Absent: Frederick, McFadyen

22326 Rosedale

Ms. Koto stated the City received three bids for this home. Two of the bids were equal amounts of \$109,900. The difference between the two is the net income we would receive which is directly proportional with how much mortgage they can afford.

Mr. Goosen stated that under line 32 of the purchase agreement, he will have the purchaser initial only letter A for the lead-based paint disclosure.

Motion by Walby, seconded by Rubello to approve the sale of the NSP Home at 22326 Rosedale to Client Identifier B for \$109,900, correcting the lead base disclosure in the purchase agreement and capping the payment for repairs at \$200.

Ayes: All – 5

Absent: Frederick, McFadyen

20613 Sunnyside

One offer was received for this home for \$80,000. The purchaser is willing to do a \$4,000 down payment; the home has a significant write down, net income from sale to be \$32,134. This is due to the buyer's low income with an affordability mortgage factor of \$31,000. The program requires such buyers with 50% average median income. If the individual has very little debt, MSHDA will put together a higher mortgage package.

In order to get the write down portion forgiven, the buyer has to stay in the NSP house for 10 years. If they sell the house within the 10 years, they must pay the write down back.

Total development cost for the home is \$141,477.

Ms. Rusie asked to fill in the appliances in the purchase agreement and identify the type of mortgage.

Mr. Walby discussed the significant write down and questioned the ability to maintain the home. Ms. Koto replied that this is how the program works and that the affordability factor is taken into account. Mr. Houtekker explained that the purchaser does have limited means but has saved \$4,000 for a down payment; in addition, the program is meant to

10. REQUEST TO APPROVE THE SALE OF NSP HOMES cont'd.

20613 Sunnyside

scale down the mortgage in line with their income and affordability.

Mayor Hison noted that this home has more risk for the City; however, the program is designed to allow people to enter a home they would not be able to afford. If they don't make the payments, they would fall into foreclosure.

Mr. Goosen recommended the sale because the home is on the smaller side and only one offer was received. He added that the program requires selling the homes to people with these income limitations.

Mr. Goosen noted that he fully disclosed to the buyers that he is representing the City as the seller's agent.

Motion by Rubello, seconded by Walby to approve the sale of the NSP Home at 20613 Sunnyside to Client Identifier L for \$80,000 subject to bringing back the final offer before City Council.

Ayes: All – 5
Absent: Frederick, McFadyen

Item taken out of order

7. REQUEST FROM PAT O'BRIEN'S TAVERN, 22385 10 MILE ROAD, TO HOLD ST. PATRICK'S DAY PARTY ON MARCH 17, 2011 FROM 7:00 A.M. TO 2:00 A.M. WITH OUTSIDE TENT AND ENTERTAINMENT ENDING AT MIDNIGHT

Mr. Richard Kohl, Pat O'Brien's Tavern, respectfully asked to postpone their request to the next Council meeting.

Mayor Hison advised him that at the beginning of the meeting he asked if any petitions would like to withdraw their request because two Council members being absent tonight. And this is their opportunity to withdraw/postpone.

Motion by Walby, seconded by Rubino to postpone the request from Pat O'Brien's Tavern to hold St. Patrick's Day Party Event to the March 7, 2011 Council meeting.

Ayes: All – 5
Absent: Frederick, McFadyen

11. BIDS/CONTRACTS/PURCHASE ORDERS – NONE

12. 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 Rubino to approve the Consent Agenda items a – c, e and g, separating items d and f, which include the following:

a. Bills

February 22, 2011	\$1,703,277.93
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To approve the release of checks in the amount of \$1,703,277.93, of the report that is 21 pages in length and of the grand total amount of \$1,703,277.93, \$426,673.01 went to other taxing authorities.

b. Fees

Roumell & Lange	\$11,361.25
Ihrie & O'Brien	\$7,123.00

To approve the above attorney payments to Roumell & Lange and Ihrie & O'Brien subject to audit.

c. Progress Payments

Utility Services Authority, LLC	\$206,910.00
Posen Construction, Inc.	\$734,422.53

12. CONSENT AGENDA cont'd.

Lake County Sewer Company, Inc.	\$ 39,764.00
Bricco Excavating Company, LLC	\$ 87,492.93
Blade Action, Inc.	\$ 7,290.00

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>
Board of Fence Appeals	September 9, 2010
Communication Commission	May 12, 2010
Communication Commission	September 8, 2010
Communication Commission	October 13, 2010
Communication Commission	November 10, 2010
Communication Commission	December 8, 2010
Communication Commission	January 12, 2011
Council Sub-Committee on Boards & Commissions	November 23, 2010
Council Sub-Committee on Boards & Commissions	December 6, 2010
Council Sub-Committee on Boards & Commissions	January 3, 2011
Dog Park Committee	November 4, 2010
Employee Civil Service Commission	September 2, 2009
General Employees' Pension Board	January 18, 2011
Water Resources and Advisory Board	January 4, 2011
Zoning Board of Appeals	January 6, 2011

f. To set the Fiscal Year 2011-2012 Budget Public Hearings for May 9 and May 10, starting at 6:00 p.m.

Separated items

d. Approval of Minutes

<u>Minutes</u>	<u>Meeting Date</u>
City Council	February 7, 2011

Ms. Rusie made two corrections to the proposed minutes. Under her Council comments, she stated the City's Facebook page has over 6,000 members and she wished her dad a happy 50th birthday and a happy 30th anniversary.

Motion by Walby, seconded by Rubello to approve the Council minutes of February 7, 2011 as corrected on page 13, agenda item 16, fourth paragraph changing "50th" to "30th" and in the fifth paragraph correcting "300,000" to "6,000".

Ayes: All – 5
Absent: Frederick, McFadyen

g. Recommendations from the Council Sub-Committee on Boards, Commissions & Committees

Mayor Hison pointed out that Valbona Kociaj, who was recommended for an alternate position to the SCS Memorial Day Parade Committee, answered to the voter registration question on her application with an "N/A." Mayor Hison asked that the Clerk's Office follows up with her to see if she would like to become a registered voter because the City has a policy requiring all members of a City board, commission or committee to be registered voter. If she doesn't want to, she can be a volunteer on the committee.

Ms. Rusie added that this was mentioned at the Sub-Committee meeting and they were under the impression that the registered voter requirement applies to ordinance/charter commissions and not to Council created committees.

Mayor Hison clarified that this is a policy that has been in place for all boards, commissions and committees.

12. CONSENT AGENDA separated items cont'd.

Motion by Walby, seconded by Rusie to approve the following recommendations and postpone Valbona Kociaj's appointment to the next City Council meeting:

1. Accept with regret the following resignations:
 - Lynn Baker-Hunter (Board of Review)
 - Fred Hessler (Older Persons Advisory Committee)
 - Joseph St. John (Waterfront Environmental Committee)
2. Recommendation from Sub-Committee on Boards, Committees & Commissions to appoint the following:

<u>Name</u>	<u>Committee</u>	<u>Term Ending Date</u>
Lee Bertolo	Board of Review <i>(vacant seat of Lynn Baker-Hunter)</i>	September 30, 2012
Roger Reichenbach	Board of Review <i>(vacant seat of Rebekah Tiefenbach)</i>	September 30, 2013
Steve Scavone	Board of Review <i>(vacant seat of Carol Vardy)</i>	September 30, 2011
Gary Edgar	Board of Review <i>(seat created 2/1/2010)</i>	September 30, 2013
Maureen Chabot	Older Persons Advisory Com. <i>(vacant seat of Fred Hessler)</i>	September 30, 2013
Eleonore Ellero-Groth	SCS Memorial Day Parade	December 31, 2013
Suzanne Goslee-Nesbitt	SCS Memorial Day Parade, alternate	February 22, 2013
Mark Hodorek	Waterfront Environmental Com. <i>(vacant seat of Joe St. John)</i>	September 30, 2013

3. Recommendations on Re-Appointments

Sub-Committee recommends the following re-appointments to Mayor and Council:

<u>Name</u>	<u>Committee</u>	<u>Term Ending Date</u>
Hefferan, Karen	Beautification Commission	December 31, 2013
Keck, Denise L.	Beautification Commission	December 31, 2013
Kosiara, Joe	Beautification Commission	December 31, 2013
Michno, Duane	Board of Fence Appeals	December 31, 2013
Pullin, Randy	Board of Fence Appeals	December 31, 2013
Scavone, Steve	Board of Fence Appeals	December 31, 2013
Hughes, Benjamin M.	Charter Study Committee	December 31, 2011
Kotowski, Mary A.	Charter Study Committee	December 31, 2011
Mattson, Kenneth	Charter Study Committee	December 31, 2011
O'Brien, Deborah	Charter Study Committee	December 31, 2011
Delia, Vito	Dog Park Committee	December 31, 2013
Horan, Janet	Historical Commission	December 31, 2013
Sielagoski, Gerald L.	Historical Commission	December 31, 2013
Cory, John	Parks and Recreation Commission	December 31, 2013
Jonassen, John E.	Parks and Recreation Commission	December 31, 2013
Mumford, Frank L.	Parks and Recreation Commission	December 31, 2013
Paladino, D. Scott	Parks and Recreation Commission	December 31, 2013
Pylar, Robert J.	Parks and Recreation Commission	December 31, 2013
Michno, Duane J.	Zoning Board of Appeals	December 31, 2013
Pullin, Randy	Zoning Board of Appeals	December 31, 2013
Scavone, Steve	Zoning Board of Appeals	December 31, 2013

Sub-Committee recommends the following re-appointments to the Mayor:

<u>Name</u>	<u>Committee</u>	<u>Term Ending Date</u>
Kress, Bradley	Corridor Improvement Authority	December 31, 2014
Michno, Duane	Corridor Improvement Authority	December 31, 2014

12. CONSENT AGENDA separated items cont'd.

Marion, Sam	Housing Board of Appeals	December 31, 2013
Frezza, Danny	Library Board	December 31, 2015
Doppke, Paul	Planning Commission	December 31, 2013
Ugorowski, Mary	Planning Commission	December 31, 2013
Claycomb, Joseph E.	TIFA/Brownfield	December 31, 2014
Widgren, Richard	TIFA/Brownfield	December 31, 2014
Claycomb, Joseph E.	Water Resources Development	December 31, 2013
Danford, Warren	Water Resources Development	December 31, 2013
Peruski, Gerald	Water Resources Development	December 31, 2013
Stripling, Kevin M.	Water Resources Development	December 31, 2013

13. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING

- **Harper Water Main and Street Lighting** – Mr. Rayes noted the digging is completed and the lights from Edison will take a while, because they are weather dependent. He will look into the issue with the burned out lights on 9 Mile.

14. COMMENTS BY INDIVIDUAL COUNCILPERSONS

Council Member Rubello requested information about the CDBG funds allocation prior to the budget review in March.

Mayor Hison was recently in Washington and the legislature discussed reducing the CDBG money by almost 70% and cutting the Clean Water Initiative funds. These cuts would be detrimental to the City. The federal government has not approved their budget yet, so we should have a more clear idea after they approve it.

Mr. Rubello stated the Beautification Commission would like answers to the following questions: how many condemned homes in St. Clair Shores, how many vacant homes, how many are slated to be torn down, when are they scheduled to be demolished, and can proceeds from HUD home sales be used for tear down costs?

Council Member Walby passed.

Council Member Rusie announced that Maple, the dog missing since January 27, 2011, is still gone. Call (586) 381-4009 with any information.

Council Member Rubino stated the Ethics Committee finished the ethics ordinance and he would like to see the item on the next Council agenda. Mr. Rubino talked about discussions held at the Study Session in regards to the Fire Department.

Mr. Hughes noted the two months trial has been moved to start March 14, 2011 due to ongoing negotiations.

Mr. Rubino mentioned that on the Police union's website it states that a vote was taken by Council on how they should handle business. He did not recall any votes taken at the Study Session; Mayor and Council looked at different ideas, which did not develop into going one way or another.

Mayor Hison confirmed that no votes were taken at the Study Session because they are intended for discussion only.

Mayor Hison passed.

15. CITY MANAGER'S REPORT

Mr. Hughes discussed the property assessment process. Every year, all taxpayers receive a statement of the property assessment. Any property owner may appeal this statement to the City's Board of Review. To schedule an appeal meeting, call the Assessing Department at (586) 447-3355. The Board of Review meeting dates are March 8, 9:00 a.m. to 5:00 p.m.; March 10, 1:00 p.m. to 9:00 p.m.; March 14, 1:00 p.m. to 9:00 p.m.; and March 15, 9:00 a.m. to 5:00 p.m.

16. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT)

Gary Crandall, POA union president, stated that it has come to his attention that the City is no longer hiring police officers and that they are being replaced with civil service employees. He believed that this is against the heart and sole of the Police and Fire millage.

16. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT) cont'd.

Mayor Hison noted that only discussion took place; no decision or implementation has been made. There was no vote to change anything at the Police Department.

Mr. Crandall explained that 30 clerks do not equal 30 police offers and it is unfair to take the residents money that voted for guaranteed service and provide less service. Anything less than police officer for police officer and fireman for fireman is less service.

Bob Fetter, St. Clair Shores resident, has been following the last City election and what has happened since November 2009. Mr. Fetter expressed his disappointment that an Ethics Ordinance, which was talked about during campaigning, has not been implemented. He talked about serving two masters as part time elected officials and asked that a proposed Ethics Ordinance be addressed at the next Council meeting.

Jay Earlic, stated he submitted a bid for the Energy Efficiency Improvements Project. He asked Council to review the bid results again because he believes the original review was not accurate. Mayor Hison recommended Mr. Earlic to meet with the City Manager to provide more details.

Jamie Victory, St. Clair Shores resident, inquired about the Memorial Day Parade grand stand. Mayor Hison suggested contacting the Parade Committee.

Mr. Victory asked for clarification on the 2011 Fireworks fees that were published in the Macomb Daily. Mayor Hison responded that the fees were published in error. Since then, a retraction was published to reflect the correct fees; \$2 admission and \$5 parking.

Mary Robbins, Loretta and Robert Turczynski, St. Clair Shores residents, addressed their concerns regarding parking in the north end of the City the night of the Fireworks. People park on both sides of the streets, they block driveways, and have strangers park in homeowners' driveways. The residents are concerned that emergency vehicles would not be able to get through.

Mayor Hison responded that the issue will be addressed and an update will be provided to the residents.

Chad Hyvonen, St. Clair Shores resident, stated that Police and Fire are always criticized. He talked about the Fire union's accomplishments since 1977. He added that the union is involved in many community events, volunteering their time and providing funding from the union's resources. They have implemented several changes to the Fire Department, including the recently added third ambulance. Mr. Hyvonen emphasized that the union wants to work towards the solution.

Cynthia Pajkic, St. Clair Shores resident, discussed the Proposal 2 that passed at the last general election. She noted that according to the attorney who helped drafting the proposal language, only the daily staffing could be placed in the ballot language but the intent should be stated in the preamble. Ms. Pajkic disagreed with previous comments dismissing the legal standing of the preamble and stated that residents would not vote to pay more for less service. She added that any reduction translates into a decrease of services.

Ms. Pajkic was disappointed that the City would consider moving Code Enforcement employees to the Police Department to fill the staffing numbers and dismissing the school crossing guards.

Steve Scavone, St. Clair Shores resident, thanked Council for denying the Kroger's rezoning request and Ms. Rusie for dissecting the real issues with the proposed gas station. Mr. Scavone disapproved with the development because the location was too small.

Karen Cowig, St. Clair Shores resident, expressed her displeasure with Council ordering a two month trial with two less firefighters and one less ambulance. She suggested cancelling the trial because response time will be increased and it could result in someone losing their life.

Don Benson, St. Clair Shores resident, is an emergency care giver. He stated that if cardiac arrest patients do not receive paramedic care within eight minutes, it will cause brain damage or death. Mr. Benson praised the Fire Department's personnel and equipment and suggested keeping the third ambulance in service because five minute response time is a long time in an emergency situation.

Frank Benson, St. Clair Shores resident, stated the City resides a lot of seniors who need to be serviced, otherwise they will move out of the City. He talked about the importance of a good relationship between management and the union for a win-win situation.

16. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT) cont'd.

Colleen Martel, St. Clair Shores resident, talked about the Ethics Ordinance that two Council Members promised during their campaign in 2009. She noted that residents have a right to expect elected officials to be ethical. Ms. Martel asked for answers to questions about the use of marijuana by elected officials and addressing drug testing of elected officials in the Ethics Ordinance, for the next Council meeting.

John Dewald, Grosse Pointe resident, commercial realtor in the Shores, commended the administrative staff and stated that whenever he's brought forth a project it's been a pleasure to work with Mr. Rayes and Ms. Koto. Mr. Dewald talked about the Kroger town hall meeting and stated that he noticed St. Clair Shores is not pro large businesses.

David Micallef, St. Clair Shores resident, thanked Council for listening to the residents regarding Kroger. Mr. Micallef talked about animosity about Proposal 2 and stated that residents did not vote for an increase in taxes to decrease services.

Mayor Hison informed the audience that he will be retiring when his term ends in November 2011.

17. REQUEST TO ENTER CLOSED SESSION AS PERMITTED BY STATE STATUE MCLA 15.268, SECTION 8(e) R. BURDEN V ST. CLAIR SHORES

Motion by Rusie, seconded by Rubino to enter Closed Session by State Statute MCLA 15.268 Section 8(e) R. Burden v St. Clair Shores at 10:40 p.m.

A roll call vote was taken.

Ayes: All – 5

Absent: Frederick, McFadyen

Motion by Walby, seconded by Rubino to return to Open Session at 10:46 p.m.

Ayes: All – 5

Absent: Frederick, McFadyen

Motion by Walby, seconded by Rusie to direct the City Attorney to proceed as discussed regarding R. Burden v St. Clair Shores.

Ayes: All – 5

Absent: Frederick, McFadyen

18. ADJOURNMENT

Motion by Walby, seconded by Rubino to adjourn at 10:48 p.m.

Ayes: All – 5

Absent: Frederick, McFadyen

ROBERT A HISON, MAYOR

JANE BROWN, ACTING DEPUTY CITY CLERK