

**MINUTES
ST. CLAIR SHORES CITY COUNCIL MEETING
JANUARY 18, 2010**

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 Podolski, City Clerk Kotowski, Directors Haney, Koto, Rayes, D'Herde and City Attorney Ihrie

1. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE LED BY EAGLE SCOUT D.C. WHEATON

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 led by Eagle Scout D.C. Wheaton and was recited by those in attendance.

2. PROCLAMATIONS & PRESENTATIONS

a. Eagle Scout D.C. Wheaton

Mayor Hison presented Mr. D.C. Wheaton with the following: ***WHEREAS**, the Mayor and the Council of the City of St. Clair Shores wish to acknowledge and honor **D.C. WHEATON**, who has earned his Eagle Scout rank with Boy Scout Troop 1490 in St. Clair Shores and by his accomplishments is an example to others; and **WHEREAS**, **D.C.** is a national and regional Honors medalist for his Order of the Arrow, Boy Scouts' Camping Honor Society, Ceremonies work; and **WHEREAS**, **D.C.**'s Eagle Scout project was recognition and resolution of the unkempt theater property room in his high school which presented a safety danger and he organized and led a crew that spent over 250 hours inventorying and reorganizing this room to aid those using the stage in making more effective arts and cultural presentations and prepared a log book for users; and **WHEREAS**, **D.C.** was the Wapaneu Chapter Chief for 2009 for Mi-Gi-Si O-Paw-Gan Lodge #162, where his Chapter was recognized for its members contributing more than 3,000 hours of community service work in 2009, will serve as Lodge Chief in 2010 for much of the Metro Detroit area and will have camped over 200 nights as a Boy Scout by the time he graduates high school; and **WHEREAS**, **D.C.** has proven to be an outstanding member of the Boy Scout Troop 1490 and is the 58th Eagle Scout from Troop 1490 which will follow him throughout life and will be a beacon to others of leadership quality and commitment he has shown; **NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the City of St. Clair Shores, on behalf of all our residents, do hereby congratulate **D.C. WHEATON** for achieving the rank of Eagle Scout, and in recognizing his fine accomplishments, wish him the very best in all his future endeavors.*

Mr. Wheaton spoke of his Eagle Scout project at the high school and thanked the audience and his family.

b. Matthew Ahearn

Mayor Hison presented the following proclamation to Mr. Matthew Ahearn: ***WHEREAS**, the Mayor and Council of the City of St. Clair Shores acknowledge the time and efforts of Elected Public Officials representing the City of St. Clair Shores and the contributions of City Council Member **MATTHEW S. AHEARN**; and **WHEREAS**, **MATT** served the City of St. Clair Shores as a member of the City Council from November 8, 2005 through November 9, 2009, serving one year as Mayor Pro-Tem, with enthusiasm and dedication; and **WHEREAS**, **MATT** has served on various Boards and Commissions such as the Activities Committee, Beautification Commission, Chairperson of the Council Sub-Committee on Boards, Commissions and Committees, Historical Commission, Housing Board of Appeals, Mayor's Advisory Panel, Shores Property Enhancement Committee, Water Resources Development and Advisory Board and Alternate member of the SMDA and SEMSD; and **WHEREAS**, **MATT** is involved in many organizations including the Detroit Zoological Society Board of Directors, Macomb County Zoological Authority Chairperson, President of the St. Clair Shores Parade Council, Habitat for Humanity Volunteer and St. Clair Shores Soccer Association Volunteer; as well as participating in numerous City events and organizations; and **WHEREAS**, elected officials spend many hours of their time away from family as they work on behalf of the residents and should be recognized for their sincere willingness to serve this community in many beneficial ways; **NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the City of St. Clair Shores, on behalf of all our residents, wish to convey to **MATTHEW S. AHEARN** our sincere appreciation for his years of dedicated service and to extend our best wishes for your future endeavors.*

Mr. Ahearn thanked the residents of St. Clair Shores for allowing him to serve as a Council member. He spoke of the learning experience and continuous involvement with the City.

c. Mark Moffitt

Mayor Hison presented the following proclamation to Mr. Mark Moffitt: ***WHEREAS**, the Mayor and Council of the City of St. Clair Shores acknowledge the time and efforts of Elected Public Officials representing the City of St. Clair Shores and the*

2. PROCLAMATIONS & PRESENTATIONS cont'd.

*contributions of City Council Member **MARK J. MOFFITT**; and **WHEREAS, MARK** served the City of St. Clair Shores as a member of the City Council from January 17, 2005, when he was appointed out of 32 applicants, and was elected to a four year term through November 9, 2009 where he served with enthusiasm and dedication; and **WHEREAS, MARK** has served as City Council liaison to the Building/Property Maintenance Board of Appeals, Cool Cities Committee, Council Sub-Committee on Boards, Commissions and Committees, Cultural Committee and the Shores Property Enhancement Committee and was a member of the Zoning Board of Appeals for five years; and **WHEREAS, MARK** has been involved in the community as a member of St. Joan of Arc Parish, Loyal Order of Moose Lodge #1837, President of the Shorewood Kiwanis group, coached basketball for St. Joan of Arc School, and is a supporter of the Tree of Hope Postpartum Research and Education Foundation as well as participating in numerous City events and organizations; and **WHEREAS, elected officials** spend many hours of their time away from family as they work on behalf of the residents and should be recognized for their sincere willingness to serve this community in many beneficial ways; **NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the City of St. Clair Shores, on behalf of all our residents, wish to convey to **MARK J. MOFFITT** our sincere appreciation for his years of dedicated service and to extend our best wishes for your future endeavors.*

Mr. Moffitt thanked the residents for the opportunity to serve the community, wished Council good luck with decisions ahead and wished Mr. Podolski a happy retirement.

Mayor Hison thanked both past Elected Officials for their service to the community and their involvement with many City events and would like to see them back joining City Boards and Commissions.

Mayor Hison announced that items 9, 10 and 12g have been removed and rescheduled to the February 1, 2010 meeting, and item 17, closed session, has been added.

Mayor Hison asked for a moment of silence for the ones that lost their lives in the tragic Haiti earthquake. The death rate is over 100,000 people and is increasing daily. Donations are encouraged through the Red Cross, churches and other local organizations.

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

Jim Goodfellow, 22476 Lakeland, Agenda Item 8, asked Council to consider fair and reasonable standards for the Snow Ordinance with realistic administrative fees. In addition, if service is done during business hours, there should be no fee and residents should be notified by a letter.

Charles Hall, 23020 California, Agenda Item 8, inquired about sections of the proposed Snow Ordinance language: the number of inches not included in the draft, best efforts criteria, public nuisance, and the forty eight hours defined in the ordinance.

Shirley Deacon, 25532 Cubberness, Agenda Item 8, suggested using a link on the St. Clair Shores website and a telephone line with an automated message to inform residents of a snow event.

4. ST. JOAN OF ARC REQUEST TO HOLD 41ST ANNUAL SPRING FESTIVAL MAY 21 – 23, 2010 AND TO CLOSE SEVERAL STREETS

Mr. David Kesner presented St. Joan of Arc Spring Festival request to hold its 41st Annual Spring Festival on church property on May 21, 2010 from 10:00 a.m. to 1:00 a.m., May 22, 2010 from 12:00 p.m. to 1:00 a.m., and May 23, 2010 from 12:00 p.m. to 11:00 p.m. The Church would like to extend the Entertainment Tent hours by one hour, as it was done last year with good results and no complaints. On Sunday night, the midway rides, Bingo and Entertainment will all close at 8:00 p.m. The Vegas Tent will be open until 1:00 a.m. on Friday and Saturday, and will close at 11:00 p.m. on Sunday.

Mr. Kesner requested barricades at the four intersections: Greater Mack and Overlake; Goethe and Old Eight Mile Road; Edmunton and Old Eight Mile Road; and Greater Mack and Edmunton. He asked for Council to waive the electrical inspection fee and the temporary sign permit fee.

Ms. Rusie noted the waiver of the temporary sign permit fee needs to be added to the resolution.

Motion by McFadyen, seconded by Walby to approve St. Joan of Arc's request to hold its 41st Annual Spring Festival May 21-23, 2010 with the following hours: May 21-22 close entertainment tent at 1:00 a.m., bands ending at 11:30 p.m. and May 23 close midway rides, bingo and entertainment at 8:00 p.m.; 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 of the electrical inspection and temporary sign permit fees.

Ayes: All – 7

5. REQUEST FROM MICHIGAN LIQUOR CONTROL COMMISSION FOR A TRANSFER OF OWNERSHIP OF 2009 CLASS C LICENSED BUSINESS (IN ESCROW) WITH DANCE-ENTERTAINMENT PERMIT, LOCATED AT 23109-23117 HARPER, ST. CLAIR SHORES, MI 48080, MACOMB COUNTY FROM SHORE CREST LANES & LOUNGE, INC. TO 9 MILE HARPER, L.L.C. (POSTPONED FROM 1/4/10)

The item was postponed from the January 4, 2010 meeting as recommended by the City Attorney because taxes were due and the ordinance states no transfer is to take place until taxes are paid.

Mr. Carl Rashid, Attorney representative for 9 Mile Harper, LLC, stated that taxes have been paid and will soon pay the \$142.50 fee for Rodent Inspection. He presented the request to transfer ownership of the Class C license from Shore Crest Lanes & Lounge, Inc. to 9 Mile Harper, LLC. This transfer of ownership is the result of a Court ordered sale of assets and this license was part of the assets transferred.

Mr. Rubello raised his concern about the maintenance of the property. Neighboring businesses have been complaining about the rodents, fence and blocking off the parking lot. They are asking to take down the fence as it has never been up before.

Mr. Ihrie responded that when a property owner allows others to utilize the parking lot, liability issues arise.

Mr. Rashid added that they have blocked the parking lot for liability reasons and to defer people from dumping trash on the property. The developer intends to demo the building and re-build as soon as possible.

Mr. Walby clarified that the license is being transferred to 9 Mile Harper, LLC and will then be transferred to another establishment in Eastpointe.

Mr. Rashid stated that Mr. Tom Le Fevre is one of the owners of 9 Mile Harper, LLC and the rest wish to remain anonymous. Mr. Ihrie added that anonymous owners are allowed in this particular case only; normally in a liquor license transfer, every partner is disclosed and investigated. Since this transfer is a result of a debt sale, this does not occur as the license is being sold to a new owner in Eastpointe, who has been fully investigated.

Ms. Rusie spoke of adding a contingency to the motion for 9 Mile Harper, LLC to not be able to use the license for operation because it will remain out of escrow in order to be further transferred.

Motion by Rubello, seconded by Frederick to approve 9 Mile Harper LLC's request to transfer ownership of (escrowed) 2009 Class C Licensed business with Sunday Sales, Dance-Entertainment Permit, Outdoor service (1 area), Official Permit (Bowling) and 4 bars located at 23109-23117 Harper, St. Clair Shores, MI 48080, Macomb County from Shore Crest Lanes & Lounge, Inc.; and request to cancel Official Permit (Bowling), Dance-Entertainment Permit, Outdoor Service (1 area) and 4 bars be considered for APPROVAL and that it is the consensus of this legislative body that the application be RECOMMENDED for issuance "above all others", contingent that 9 Mile Harper, LLC will not use the license for operation in the City.

Ayes: All – 7

6. REQUEST FOR 24 HOUR OPERATION FOR WOMEN ONLY GYM, AT 22601 GREATER MACK, FOR A NEW TENANT, WOW! WOMEN'S ONLY WORKOUT, PETITIONER, ANNETTE CYBURT

Mrs. Annette and Mr. Paul Cyburt, owners of WOW! Women's Only Workout, requested approval to move their business location from 20725 Mack Avenue, Grosse Pointe Woods, MI 48236 with 24 hour operations to 22601 Greater Mack, St. Clair Shores, MI 48080. With a larger building in St. Clair Shores, they will be able to expand the services offered. The building will be highly secured with seven security cameras. Members will receive a user id number and then create a pin to unlock the door. The building stays locked at all times and is fully alarmed.

Mr. Rubino stated that residents have contacted him about the security, parking and 24 hour issues. Mr. Cyburt replied that because of the 24 hour convenience, there is no rush and there's barely anybody in the middle of the night. Normally, the last group of one to two people will be gone by 11:00 p.m.

Ms. Rusie was concerned about crime issues, but she has talked to the Police Chief and no crimes have been reported for 24 hour facilities in the surrounding area.

Mayor Hison inquired about the second floor of the building. Mr. Cyburt responded that the second floor can not be used for gym equipment because of its height, and will probably be used for office space. In addition, lighting to the exterior of the building will be installed. The facility will not have shower commodities; it has cubicles for shoes and an area to change clothes.

6. REQUEST FOR 24 HOUR OPERATION FOR WOMEN ONLY GYM, AT 22601 GREATER MACK cont'd.

Mr. Rubello inquired about giving a moratorium for the residential wall. Mr. Rayes replied that there is no moratorium, but will give them a time frame to install the wall.

Motion by Rubello, seconded by McFadyen to approve a request to allow 24 hour operation of a women only gym, at 22601 Greater Mack.

Ayes: All – 7

7. REQUESTS FOR PLANNING COMMISSION CASES AT 20643 STEPHENS, PETITIONER LEROY STEVENS, STEVENS ARCHITECTS

a. PC10-01 Request for rezoning of Lot 121 except the west 150 feet of 20643 Stephens from P-1 Parking District to LI Light Industrial District for an addition to the existing building

Mr. Leroy Stevens, Architect representative for Alexander and Hornung, presented a request to change the zoning of Lot 121, except the west 150' of 20643 Stephens, from parking to light industrial zoning. This rezoning will allow an addition to their existing building. The parcel to the west will remain zoned Parking District (P-1).

Mr. Stevens stated that Butcher Boy Meats has been in the City for many years and is looking to expand their facility. In order to do that, the lot north of the building has to be rezoned. The balance of the property is light industrial, so the rezoning will compliment the rest. This rezoning will allow the truck traffic to move from Stephens to Little Mack.

Motion by Walby, seconded by Rubino to approve a request for rezoning, from P-1 Parking District, to LI Light Industrial District, of Lot 121, except the west 150 ft, of Lakewood Gardens Subdivision #1 as recommended by the Planning Commission, noting that the Planning Commission and City Council understand that your presence here tonight constitutes that you are a legal representative of the petitioner for Planning Case 10-01; each statement of intent, promise and/or pledge, made by you, 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 rezoning approval; and to adopt the zoning ordinance amendment which reads as follows:

THE CITY OF ST. CLAIR SHORES ORDAINS THAT ZONING ORDINANCE 15.000 SHALL BE AMENDED BY THE FOLLOWING REZONING:

(169) *Rezone from P-1 Parking District to LI – Light Industrial.*

20643 Stephens – Vacant land located on Little Mack Avenue, adjacent to, and north of, 20643 Stephens, parcel identification number 14-28-278-029, described as follows: Lakewood Gardens Subdivision No. 1, Lot 121, except the west 150.00 feet, according to the plat thereof, as recorded in Liber 7, Page 52, of Plats, Macomb County Records, Macomb County, Michigan, from P-1 Parking District to LI – Light Industrial.

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

This Ordinance shall become effective 7 days after publication and copies of this ordinance are available at the Office of the City Clerk 27600 Jefferson Circle Drive, St. Clair Shores MI, 48081 during normal business hours 8:00 a.m. – 4:30 p.m. Monday through Friday.

STATE OF MICHIGAN)
) ss
COUNTY OF MACOMB)

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by City Council on the 18th day of January, 2010 and that the necessary Charter provisions have been observed.

Robert A. Hison, Mayor

Mary A. Kotowski, City Clerk

7a. PC10-01 Request for rezoning of Lot 121 except the west 150 feet of 20643 Stephens cont'd.

I, Mary A. Kotowski, City Clerk of the City of St. Clair Shores, hereby certify that the foregoing ordinance was published in the Sentinel Newspaper on January 27, 2010, by posting true copies of the same in each of the following places: Police Station, 27665 Jefferson Avenue, Fire Hall, 26700 Harper Avenue, and City Hall, 27600 Jefferson Circle Drive and shall become effective on February 3, 2010.

Mary A. Kotowski, City Clerk

(ord. amendment eff. February 3, 2010)

Ayes: All – 7

b. PC10-01A Request for site plan approval for addition, interior renovations, exterior renovations, and parking lot improvements at 20643 Stephens

Mr. Stevens noted with the rezoning approved, they would like to add to the north of the building improving the flow of trucks and products and adding parking space. In addition, landscaping will be improved along Little Mack. The old docks will stay and new ones will be installed to separate the inbound and outbound loads. The Butcher Boy Meats will keep their small retail area, which is opened from 8:00 a.m. to 3:00 p.m.

Mr. Rubello added that the site plan has been approved by the Planning Commission and the petitioner has resolved concerns brought up by the neighboring medical building.

Mayor Hison suggested delaying the requirement for the 6' residential wall installation for 36 months because the petitioner is under negotiations to buy back the adjacent property from the state, as recommended by the Planning Commission.

Motion by Rubello, seconded by Frederick to approve a request for site plan approval, at 20643 Stephens, as recommended by the Planning Commission, subject to the conditions of the City Planer's report, including: 1) The approach on to Harmon will be eliminated, 2) The 30 ft east of that property line will be landscaped, 3) A six foot wall is required on the north property line, within 36 months, if the adjacent bank property has not been purchased, or rezoned, 4) The petitioner should speak to the adjacent neighbor, to determine satisfactory treatment for that property line, including stopping the west end of the concrete wall at the front of the house that faces the west side street, 5) Engineered drawings for all parking areas must be provided and all parking areas must be properly paved and drained, and curbs installed, 6) All lights, including parking lot and wall mounted fixtures, are to be properly screened, 7) All landscaping plans must be approved and must have irrigation, 8) All mechanical equipment must be properly screened, 9) The Planning Commission and City Council understand that your presence here tonight constitutes that you are a legal representative of the petitioner for Planning Case 10-01A. Each statement of intent, promise and/or pledge, made by you, 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 rezoning and site plan approval.

Ayes: All – 7

8. REVIEW AND CONSIDERATION OF ADOPTION OF ORDINANCE AMENDMENT TO CHAPTER 30.012 ACCUMULATION OF SNOW, ICE, RUBBISH, ETC. PROHIBITED

Mr. Rubino spoke on behalf of the Council Sub-Committee reviewing the Snow Ordinance. They tried to be fair and clear the sidewalks of snow. The number of inches has to still be decided at this meeting. The City Manager and/or the Mayor will be declaring a snow event once there's an accumulation of snow greater than the number of inches determined. After the snow event has been declared, the residents have 48 hours to clear their sidewalks. The contractor then goes out and inspects all residential properties and tags the ones that have not been cleared. The tag gives residents another 24 hours to comply and clear the sidewalks of snow. After 24 hours, the contractor goes out and shovels the ones that have not been done. If snow was shoveled by the contractor, they will tag the door, notifying the residents immediately after the fact.

Mr. Frederick stated the consensus was 2" for the ordinance and pointed out that if a resident cleared their snow after the first tag, and if it snowed again within the next 24 hours, the contractor will shovel the snow and charge.

8. REVIEW AND CONSIDERATION OF ADOPTION OF ORDINANCE AMENDMENT TO CHAPTER 30.012 ACCUMULATION OF SNOW, ICE, RUBBISH, ETC. PROHIBITED cont'd.

Mr. Rubino added that the snow event will be determined using weather service, such as www.weather.com. The number of inches will be measured at each site and the contractor will take time stamped photographs for proof. Mr. Frederick added that if the weather service considers that St. Clair Shores has two or more inches of snow, that will trigger the snow event but the contractor will still measure the snow at each residence.

Landscape Services was in contact with the Sub-Committee and they said it is feasible to check on over 29,000 homes in such a short time.

Mayor Hison stated that weather plays its own rules. A resident might shovel the snow after the 48 hours tag, but if it snowed again, it will be difficult to prove that they have shoveled their sidewalks.

Ms. Rusie questioned how the snow event will be declared and revealed to residents over the weekend or holidays when City Hall is closed. Mr. Podolski replied that it can be done; calling Mrs. D'Herde, Communications Director, and the City would not incur overtime costs.

Mr. Rubino pointed out that the program will be self funding.

Mr. Walby was concerned that the City has to send out a contractor for every 2" of snow. Mr. Ihrie responded that common sense must be applied with the snow ordinance. They will go out if snow accumulation is 2" or greater. Mr. Walby inquired whether the ordinance can be complaint driven because it would be tough for a business to do all that driving and work, and when they come back to actually shovel and charge, they would only service a small percentage of the initial tags.

Mr. Rubino replied that this concern has been brought up before the Sub-Committee, but they concluded that it's the cost of doing business.

Mr. Ihrie stated that the City can not pass an ordinance which is complaint driven.

Mr. Haney provided a break down of all costs associated with the administration of the Snow Ordinance program and the actual itemized numbers came to approximately \$120 for the administrative side. The Sub-Committee decided to decrease the administrative fee from \$100 to \$65. The contractor will also charge a fee for the shoveling service.

The City is currently under contract with Landscape Services and has a fee of \$30 for shoveling snow. Mr. Ihrie added that if this program is implemented with photographs, measurements and inspections of all 29,000 homes twice, they anticipated the fee to increase to \$35 per serviced house. In addition, the drafted ordinance calls for civil infraction tickets for multiple offenses. The ticket fee is up to \$50 for the second offense, and up to \$100 for the third and subsequent offenses.

Mayor Hison suggested that Council can try out this new ordinance and see how many complaints are received within a year.

Mr. Rubino added that if a resident is in disagreement with City's services, they can appeal. Within 21 days of receiving a bill, a resident can request in writing an appeal to the City Manager. If the resident is unhappy with that decision, within 21 more days, an appeal can be made to the Building/Property Maintenance Board of Appeals, whose decision is final. The board is made up of five members: three residents, one Council Liaison and one Staff Liaison.

Mrs. McFadyen inquired about bank owned homes that will not know about hangers at the door. Mr. Ihrie responded that if nobody answers to the notice, the contractor will shovel and bill. Ultimately, if violations are not paid, they can be assessed to the tax rolls.

Mr. Podolski noted that many banks hired snow removing contractors to avoid paying violation fees to the City, after last year.

Mr. Ihrie suggested that the ordinance by definition is always on trial, and can be changed by Council action at any time.

Mr. Rusie agreed that the ordinance has to be a balance between the residents and safety. If this doesn't work, the City will look at the issues and revisit this ordinance. In addition, the contractor has to follow the ordinance as well.

8. REVIEW AND CONSIDERATION OF ADOPTION OF ORDINANCE AMENDMENT TO CHAPTER 30.012 ACCUMULATION OF SNOW, ICE, RUBBISH, ETC. PROHIBITED cont'd.

Mayor Hison asked if the contractor is currently under contract for the surveying portion. Mr. Ihrle noted the existing contract would need some minor changes including a \$5 fee increase for the surveying and tagging which Council needs to approve.

Mayor Hison thanked the Sub-Committee for their hard work and noted that the ordinance will be effective after it is posted.

Motion by McFadyen, seconded by Rubello to approve a request for adoption of Ordinance Amendment to Chapter 30.012 Accumulation of snow, ice, rubbish, etc. prohibited, which reads as follows:

THE CITY OF ST. CLAIR SHORES ORDAINS THAT ORDINANCE 30.012 ACCUMULATION OF SNOW, ICE, RUBBISH, ETC., SHALL BE AMENDED AS FOLLOWS:

30.012 Accumulation of snow, ice, rubbish, etc., prohibited.

Sec. 33-2

(a) Each owner or occupant of any premises abutting a sidewalk shall remove all snow and ice from said sidewalk and keep the same free from obstructions, encroachments, encumbrances, filth, rubbish and other substances likely to cause injury to any person.

(b) No person shall deposit or place snow from private property on any public sidewalk, street or right-of-way; nor shall any person deposit or place snow from public sidewalks onto public streets or rights-of-way.

(c) No person shall deposit, place, shovel or plow snow in such a manner as to block passage of pedestrian traffic on public sidewalks, streets or rights-of-way.

(d) No person shall deposit, place, shovel or plow snow in such a manner as to hinder or interfere with the ability to see pedestrians or vehicular traffic. In this regard, snow shall not be deposited, placed, shoveled or plowed to exceed 4 feet on any property.

(Chap. 33 eff. Dec. 3, 1968; amend. Eff. Oct. 8, 1996)

Shall be amended as follows:

30.012 Accumulation of snow, ice, rubbish, etc., prohibited.

Purpose.

During the winter months, St. Clair Shores residents (including children walking to school and the physically challenged) need to be able to safely use the public sidewalks and walkways. This means that all snow and ice should be removed from the entire constructed width enabling people of all ages and physical conditions to have access to clean pedestrian walkways. This ordinance is intended to provide for such safe passage and to protect the general health, safety and welfare of the St. Clair Shores residents and those using the public sidewalks and walkways.

1. Obligations and prohibitions.

(a) Each owner or occupant of any premises abutting a sidewalk or walkway shall remove all snow and ice from said sidewalk or walkway and keep the same free from obstructions, encroachments, encumbrances, filth, rubbish, and/or other substances which may cause injury to any person.

(b) No person shall deposit or place snow from private property onto any public sidewalk, public walkway, street or right-of way; nor shall any person deposit or place snow from any public sidewalk or walkway onto any public street or right-of way.

(c) No person shall deposit, place, shovel or plow snow in such a manner so as to block passage of pedestrian traffic on public sidewalks, public walkways, streets or rights-of-way.

8. REVIEW AND CONSIDERATION OF ADOPTION OF ORDINANCE AMENDMENT TO CHAPTER 30.012 ACCUMULATION OF SNOW, ICE, RUBBISH, ETC. PROHIBITED cont'd.

(d) No person shall deposit, place, shovel or plow snow in such a manner so as to hinder or interfere with the ability to see pedestrian or vehicular traffic. Snow shall not be deposited, placed, shoveled or plowed in such a manner causing said snow to exceed four (4) feet in height on any property.

2. Violation declared to be a public nuisance.

It is hereby determined that a violation of this ordinance will create an immediate health and safety hazard to those using the public sidewalks and walkways within the City of St. Clair Shores. As such, a violation of this ordinance is hereby declared to be a public nuisance.

3. Abatement of public nuisance.

A violation of this ordinance having been declared to be a public nuisance may be abated by the City of St. Clair Shores through its' employees and/or contractors. Such abatement may include, but is not limited to, the clearing of said sidewalks and walkways of snow, ice, obstructions, encroachments, encumbrances, filth, rubbish and other substances or materials creating the possibility of injury to any person. The City shall take abatement action with respect to the accumulation of snow and/or ice only when such has reached an accumulation depth of two (2) inches or greater (snow event).

Prior to the City or its contractor abating the nuisance with respect to snow/ice, the following provisions shall apply:

1. Each owner or occupant of any premises abutting the sidewalk or walkway shall remove the snow and ice from said sidewalk or walkway within 48 hours of the City declaring a snow event. A snow event shall be declared whenever snow or ice has reached an accumulation depth of two (2) inches or greater. Only the City Manager or the Mayor may declare a snow event.

2. The City shall use its best efforts to inform its residents of the declaration of a snow event, however, the obligation to remove snow and/or ice from the sidewalk or walkway is not dependent upon the owner or occupant receiving actual notice of the snow event declaration.

3. Forty-eight hours after the declaration of the snow event, the City or its contractor will leave written notice at any property in violation stating that if the sidewalk or walkway is not cleared of snow/ice within twenty-four (24) hours, the City or its contractor will do so and assess the cost and administrative fee to the property owner and/or occupant. Written notice may be in the form of a sticker to be placed on or near the front door, or other written notice affixed to the property on or near the front door. Notices to commercial businesses shall be placed in an envelope placed on or near the front door.

4. In the event the owner or occupant has not removed the snow/ice from the sidewalk or walkway within twenty-four (24) hours after the notice detailed in paragraph 3, the City or its contractor may remove the snow/ice, and assess the cost and administrative fee to the owner/occupant. Upon the City or its contractor abating the nuisance, it shall provide notice to the owner or occupant in the same manner detailed in paragraph 3 above, that the City has abated the nuisance and that the cost and assessment for said abatement will be billed to the owner/occupant.

4. Assessment against property owner and/or occupant.

The City of St. Clair Shores shall have the right to assess all costs of said nuisance abatement against the property owner and/or occupant of the property immediately abutting the sidewalk or walkway upon which the nuisance exists. Said assessment shall include, but not be limited to, the costs of clearing the sidewalk or walkway and an administrative fee of Sixty Five and 00/100 (\$65.00) Dollars, which may be changed from time to time by resolution of City Council. In the event the property owner or occupant fails to pay the costs of nuisance abatement and the administrative fee, said costs and fees shall be assessed against the property and placed upon the tax rolls of the City of St. Clair Shores.

5. General Notice.

General Notice to property owners and occupants of this ordinance shall be given by the following:

8. REVIEW AND CONSIDERATION OF ADOPTION OF ORDINANCE AMENDMENT TO CHAPTER 30.012 ACCUMULATION OF SNOW, ICE, RUBBISH, ETC. PROHIBITED cont'd.

- (1) Publication of the ordinance in full in the City's newsletter at least once in the fall and winter of each year.
- (2) Publication of the ordinance in full at least one time per year in a newspaper of general circulation within the City.
- (3) Notice of the obligations contained in this ordinance to be included with each water and tax bill during the fall and winter months.
- (4) Publication of the obligations contained in this ordinance on the City's website.

6. Appeal.

Any person aggrieved by any provision of this ordinance may appeal any cost or assessment occasioned by the City's abatement of nuisance to the City Manager. Said appeal must be filed in writing with the City of St. Clair Shores no later than twenty-one (21) days after the mailing of the costs and assessment to the property owner or occupant by the City of St. Clair Shores. The appeal must include a full explanation why the costs and/or assessment should not have been levied. The City Manager shall have authority to determine all matters related to the appeal.

Any person aggrieved by the decision of the City Manager may appeal to the Property Maintenance Board of Appeals Arbitration Board. Said appeal must be filed in writing with the City of St. Clair Shores no later than twenty-one (21) days after the decision of the City Manager has been provided to the appellant. The decision of the Property Maintenance Board of Appeals Arbitration Board shall be final.

7. Penalty.

A second violation of this ordinance is a civil infraction. The penalty for a violation of this ordinance shall be tiered as follows:

- 1. For the first offense resulting in the City or its contractor abating the nuisance, the property owner and/or occupant shall pay the cost of the abatement and the administrative fee.
- 2. For the second offense, the property owner and/or occupant shall pay the cost of the abatement, the administrative fee, and may be cited with a civil infraction ticket with a maximum fee of Fifty and 00/100 (\$50.00) Dollars plus court costs.
- 3. For the third and subsequent offense, the property owner and/or occupant shall pay the cost of the abatement, the administrative fee, and may be cited with a ticket with a maximum fee of One Hundred and 00/100 (\$100.00) Dollars plus court costs.

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

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

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

STATE OF MICHIGAN)
) ss
COUNTY OF MACOMB)

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the St. Clair Shores City Council on the 18th day of January 2010, and that the necessary Charter provisions have been observed.

Robert A. Hison, Mayor

Mary A. Kotowski, City Clerk

8. REVIEW AND CONSIDERATION OF ADOPTION OF ORDINANCE AMENDMENT TO CHAPTER 30.012 ACCUMULATION OF SNOW, ICE, RUBBISH, ETC. PROHIBITED cont'd.

I, Mary A. Kotowski, City Clerk of the City of St. Clair Shores, hereby certify that the foregoing ordinance was published by posting true copies of the same in each of the following places: Police Station, 27665 Jefferson Avenue, Fire Hall, 26700 Harper Avenue, and City Hall, 27600 Jefferson Circle Drive on the 20th day of January 2010.

Mary A. Kotowski, City Clerk

(ord. amendment eff. January 20, 2010)

Ayes: All – 7

9. REQUEST FOR APPROVAL OF A RESOLUTION TO ALLOW WRITE-IN APPEALS TO THE BOARD OF REVIEW (RESCHEDULED TO 2/1/10)

10. AMBULANCE FEES INCREASE TO THE MAXIMUM RATE MEDICARE/BLUE CROSS BLUE SHIELD ALLOWS (RESCHEDULED TO 2/1/10)

11. BIDS/CONTRACTS/PURCHASE ORDERS – REQUEST TO AUTHORIZE AWARD LISTING FOR ARCHITECTURAL AND CONSTRUCTION MANAGEMENT SERVICES FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP) PROJECTS

Ms. Koto noted that proposals were received on January 12, 2010 to provide architectural services for the NSP houses. Staff was required to bid for services, as a requirement of the grant. The City advertised for the first time on the MITN/Bidnet system. With the aid of the system, 800 companies received notice of the RFQ, 214 companies actually reviewed and downloaded the packet, and 25 submitted proposals. Out of the 25, 18 were considered qualified, and 7 are recommended to use at any given time.

Each proposal was reviewed against a 45 point checklist. The checklist was more of a guide, not a set of firm requirements for being considered. In addition, the City looked for local businesses, women and minority owned businesses (high priority MSHDA requirement), size of firms, federal funding experience and distance from St. Clair Shores.

The City received \$1.7 million from MSHDA for the Neighborhood Stabilization Program. All money is required to be used by June 2010, so in order to expedite the spending of the money, a list of architects has been created. The architects will be assigned, in the order listed, each project as it becomes available for rehabilitation. If one of the vendors is unable to fulfill the City's request, their name will be skipped and the next available vendor will be contacted. If a vendor is skipped, the City reserves the right to request services of the remaining vendors before asking for skipped vendor's services again. The architects list is not an approved contractor list. Each project is required to be bid out separately for all rehabilitation work and the lowest fee architect got first on the list.

Ms. Koto stated Quinlan Associates is the St. Clair Shores business, Krieger Associates Interiors is the one women-owned business, Hamilton Anderson Associates is the one minority-owned firm, Stucky Vitale Architects has done quality work in the City, and the rest have great experience (Sauriol Bohde Wagner, Fusco, Shaffer & Pappas and George G. Hartman Architects). Ms. Koto added the City will approve all work and bidding will go through the City.

Mr. Rubino suggested taking off Fusco, Shaffer & Pappas because of their high fee, almost double the other ones.

Mr. Rubello inquired why funds were not received from the County. Ms. Koto responded that the federal government used a formula and if a municipality was to receive less than \$2 million, the money went directly to the state and Block Grant communities would qualify to receive the grant directly from the state.

The target areas for the program are south of 9 Mile Road, from Jefferson to the west border. Floodplain properties can not be included in the program. The goal of the program is to rehabilitate 10 to 15 homes and be able to sell them. The architects' job will be to oversee day to day operations of the rehab at the site and write bid specifications. The bids will be submitted through MITN and the City will perform inspections and release permits.

The program can be revolved within 48 months from the start of the program using funds made available through the sale of the properties. Ms. Koto added that the architects' fee is based on total construction cost.

11. BIDS/CONTRACTS/PURCHASE ORDERS cont'd.

Motion by Rubino, seconded by Rusie to approve a request to authorize award listing for six Architectural and Construction Management Services Companies for Neighborhood Stabilization Program (NSP) projects as follows: Stucky Vitale Architects, Sauriol Bohde Wagner, Hamilton Anderson Associates, George G. Hartman Architects, Quinlan Associates, and Krieger Associates Interiors.

Ayes: All – 7

12. CONSENT AGENDA

Motion by Frederick, seconded by Rubino to approve the Consent Agenda items a – f as presented, which include the following:

a. Bills

January 12, 2010 \$3,018,871.41

To approve the release of checks in the amount of \$3,018,871.41, of the report that is 19 pages in length and of the grand total amount of \$3,018,871.41, \$338,234.30 went to other taxing authorities.

b. Fees

Roumell & Lange \$10,373.10
Ihrle & O'Brien \$4,535.10

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

c. Progress Payments

Carr's Outdoor Service, Inc. \$3,790.00 (Final)
Doetsch Environmental Services \$33,879.01
Noble Fence Co. \$29,464.00
Tiseo Brothers, Inc. \$67,917.24

To approve the above progress payments, subject to audit.

d. Approval of Minutes

To approve the following minutes:

<u>Minutes</u>	<u>Meeting Date</u>
City Council Workshop	December 19, 2009

e. Receive & File Boards, Commissions & Committee Minutes

To receive and file the following minutes:

<u>Minutes</u>	<u>Meeting Date</u>
Charter Study Committee	October 10, 2002
Historical Commission	December 1, 2009
Mayor's Advisory Panel	October 29, 2009
Waterfront Environmental Committee	December 15, 2009
Beautification Commission	October 14, 2009
Communications Commission	September 9, 2009
Communications Commission	November 24, 2009
Cool Cities Committee	October 14, 2009
Corridor Improvement Authority	October 7, 2009
Corridor Improvement Authority	November 4, 2009
Cultural Committee	September 9, 2009
Golf Course Committee	September 15, 2009
Zoning Board of Appeals	November 5, 2009

f. To set Budget hearing for fiscal year 2010-2011 on May 5 and 6, 2010 starting at 6:00 p.m.

Ayes: All – 6
Absent: Walby

13. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING

- **2010 City Calendar** – Mrs. D’Herde thanked the residents for their understanding and reporting the undelivered calendars. 70%-75% of all streets were compromised in some way. Mrs. D’Herde noted due to this none of the businesses in the City would receive a calendar. The distribution company is still working to deliver 300-400 calendars. The Communications Commission recommended a credit adjustment and will be in touch with the City Attorney in regards to that. The City has not been billed for the project yet, and Mrs. D’Herde is looking into possibly mailing the 2011 calendars through USPS.

14. COMMENTS BY INDIVIDUAL COUNCILPERSONS

Council Member Walby inquired about the asphalt work on Francis Street. Mr. Rayes replied that the City has contracted another company to clean the roadway as soon as it’s clear of snow and ice and will charge the contractor in default.

Mr. Walby updated the audience on the City Manager Search Committee. About 50 applications were received until the end of the year from not only Michigan, but other states as well. The committee narrowed them to 12 but are still meeting and following up with them. The finals will be interviewed by City Council.

Council Member Frederick requested an update on the asphalt clean up on 9 Mile left on the road by the resurfacing project done by Harper Woods. Mr. Babcock is in touch with Harper Woods to contract the cleaning.

Mr. Frederick extended his condolences to the family of John Yoe, past police officer of St. Clair Shores. More information about prescription assistance through the County should be directed to Sue at (586) 469-7977.

Mr. Frederick announced the upcoming Fire Fighters bowling tournament on February 27, 2010, \$30 per person, (586) 445-5361.

Council Member Rubello mentioned the Local History Center is open Tuesdays and Thursdays at the Library. The Waterfront Environmental Committee met on January 14, 2010 for their annual meeting. Mr. Rubello thanked Representative Sarah Roberts, the McInnes family and Tom Cleaver for money donations for the scholarship program.

The Beautification Commission is looking for volunteers; contact Lillian Claycomb at (586) 773-0736.

Mr. Rubello announced the Nautical Mile Chili Cook-off, January 28, 2010, 6:00 p.m. to 9:00 p.m. at Blossom Heath Inn.

Mr. Rubello requested information on the homes on Elmira and Yale Streets. Mr. Ihrie responded that he talked to the attorney of the estate on Yale and the house will soon be demolished. For the Elmira house, the case has been dismissed as the City reached an agreement with the other side. The owners have 30 days to completely rehab the interior and exterior of the property. If they fail to follow through, the City has the right to demo the house and if brought back to court, they will pay all attorney costs.

Mr. Rubello requested a program proposal for giving naming rights to the pocket parks recently installed in the City, to be developed by CDI within two months.

Mr. Rubello requested five goals from CDI on their plans for the business community and list three unfriendly business ordinances and recommendations for change to be provided to Council within six weeks.

Council Member McFadyen passed.

Council Member Rusie asked for an update on the DTE lighting fixtures purchase. Mr. Rayes stated that the City was able to reduce the amount of fixtures by five for the 9 Mile project which would save the City \$3,100.

Ms. Rusie suggested forming a Sub-Committee to review the political signs and temporary signs ordinances.

Ms. Rusie pointed out her correct e-mail address is rusiec@scsmi.net and thanked the residents for all the e-mails, phone calls and support.

Council Member Rubino inquired about warranty for street replacements. Mr. Rayes replied that roads have a warranty bond for the pavement for two years after the work is completed. If the damage is a crack, it has to be determined whether the cause is structural or not.

14. COMMENTS BY INDIVIDUAL COUNCILPERSONS cont'd.

Mr. Rubino inquired about the ornamental statue at the 9 Mile and Harper bank. Mr. Rayes stated they just built the foundation and will follow with the sculpture soon.

Mr. Rubino requested Mr. Ihrle to bring back a draft of an Ethics Ordinance by the end of February.

Mr. Rubino stated that SLC Meter Service, Inc. sent a resident a letter stating that the remote reading device that has recently been installed is not working properly. He was under the impression that no water meters are to be replaced, unless they are broken.

Motion by Rubino, seconded by McFadyen to not replace residential water meters, unless they are broken, or not working, unless/or they are specifically requested by the resident to be changed, and to proceed with the last 1/3 well meters replacements.

Ayes: All – 7

The well meters are scheduled for replacement with only one third left to do. Mayor Hison added that water meters are purchased to keep for inventory, in case a replacement is needed and a charge is associated with the replacement.

Mr. Rubino talked about the St. Clair Shores Cultural Committee Film Movement; new movies are played at the Library each month. On January 21, 2010 6:30 p.m., Troubled Water will be played. The event is provided at no cost but donations are encouraged.

Mayor Hison passed.

15. CITY MANAGER'S REPORT

Mr. Rayes stated that RFP's were solicited for all St. Clair Shores real estate firms for the City owned HUD homes and seven proposals were received. Mr. Rayes presented a spreadsheet compiling all costs and services for each home and recommended awarding the contract to Goosen's Real Estate One.

Ms. Rusie asked if the City would be agreeing to the prices and values stated in his proposal by approving the contract. The City will meet with the real estate company and establish a strategic price for each home. Offers will be accepted within a set range and be contingent upon City Council's approval. The contract would entail a six month agreement, which is standard and fair for the current market.

Motion by Walby, seconded by Rusie to approve a request to award a contract to Real Estate One, for real estate services.

Ayes: All – 7

16. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT)

Charles Hall, 23020 California, suggested identifying the contractor canvassing the City for the Snow Ordinance program in order for residents to be aware of what's going on.

He also suggested a program used in other communities "buy a house and get a boat well." As a consideration, Mr. Hall asked if the youth of the City can help delivering calendars in the future.

Tom Guiney, 21309 Erben, commented on the new Snow Ordinance and suggested charging all residents \$50 to have the City shovel the sidewalks.

Christine Blair, 22400 Sunnyside, asked what the City will do about plowing the streets as they are not plowed right away. Mrs. Blair inquired about the St. Joan of Arc Spring Festival; she has had property damaged in the past and questioned the blockage of several streets.

Mayor Hison responded that snow emergencies are called usually when there's 4" – 5" accumulation of snow to plow all residential streets. In regards to the festival, the resident has to be in contact with the committee holding the event. The barricades closing the streets are the same as every year.

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

Ed Lacny, 24300 Princeton, handed Mayor and Council pictures of a tattered flag on a closed business on Industrial Drive. Mr. Podolski stated the City is aware of the situation and has talked to the property owner. They can't bring it down because the motor is frozen, but the City crew will attempt to take it down.

Gerald Larson, 21623 Yale, commented on governmental spending and encouraged the City to look at every avenue to save money.

Mayor Hison noted it is not business as usual and we are looking at every department and will start budget meetings this month.

18. REQUEST TO ENTER CLOSED SESSION AS PERMITTED BY STATE STATUTE MCLA 15.268 SECTION 8(c)

Motion by McFadyen, seconded by Frederick to enter Closed Session as permitted by State Statute MCLA 15.268 Section 8(c) at 10:20 p.m.

A roll call vote was taken.

Ayes: All – 7

Motion by McFadyen, seconded by Rubello to return to Open Session at 10:43 p.m.

Ayes: All – 7

Motion by McFadyen, seconded by Rubino to approve settlement and release of all claims as presented by Labor Council for employee S. Wolny.

Ayes: All – 7

Mr. Podolski presented the concept of restoring the Assistant City Manager/Human Resources director position as Mr. Smith has taken on more duties and with some of the direction from City Council, the position reinstatement is necessary.

Motion by Walby, seconded by McFadyen to restore the position of Assistant City Manager/Human Resources Director.

Ayes: All – 7

19. ADJOURNMENT

Motion by Rubino, seconded by McFadyen to adjourn at 10:50 p.m.

Ayes: All – 7

ROBERT A HISON, MAYOR

MARY A. KOTOWSKI, CITY CLERK