

**MINUTES  
ST. CLAIR SHORES CITY COUNCIL MEETING  
APRIL 19, 2021**

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

Present: Mayor Kip C. Walby, Council Members Peter Accica, John Caron, Ron Frederick, David Rubello and Chris Vitale

Absent and  
Excused: Council Member Candice Rusie

Also Present: City Manager Matthew Coppler, Assistant City Manager William Gambill, City Clerk Mary Kotowski, City Planner Liz Koto, Directors Chris Rayes and Laura Stowell and City Attorney Robert Ihrle

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

Mayor Walby called the meeting to order at 7:00 p.m. Ms. Kotowski, City Clerk, called the roll, and a quorum was present.

**Moved by Council Member Caron, supported by Council Member Frederick to excuse Council Member Rusie.**

Ayes: All – 6  
Absent: Rusie

The Pledge of Allegiance was recited.

Mayor Walby spoke about Tom Ulrich who passed away on April 13, 2021. He was very involved in City activities for many years, and he will be missed. He gave his condolences to the Ulrich family.

**2. PROCLAMATIONS & PRESENTATIONS - GREG HILLMAN, PETITPREN, MUSIC ON THE LAKE CONCERT SERIES** - Mayor Walby noted this has been moved to the first meeting in May.

**3. AUDIENCE PARTICIPATION ON AGENDA ITEMS (2 MINUTE TIME LIMIT)** - None

**4. STORM WATER UTILITY ORDINANCE 25.110**

**a. Repeal of Existing Ordinance 25.110**

**Background:** The recommendation was that Mayor and Council approve the repeal of the existing Storm Water Utility Ordinance 25.110 in its entirety and the adoption of a new Stormwater System Rates and Stormwater Enterprise Fund Ordinance 25.110.

At the April 5, 2021 Council Meeting, the Stormwater Rate Study recommendation options were presented to City Council.

HRC, after completing a thorough analysis of the permeable and non-permeable surfaces in the City, recommend a methodology that determines the stormwater system benefits that all parcels in the City make use of. This methodology allows that benefit to be measured down to a single square foot of each parcel. Furthermore, the methodology corrects some of the deficiencies that were found by the court when the City lost the recent lawsuit contesting the stormwater charge. Additionally, the City's consulting Attorney on stormwater issues, Joseph Colaianne of Clark Hill, has provided an updated stormwater ordinance that also addresses weaknesses that were found by the court during that same lawsuit.

Based upon the new charge methodology, the updated stormwater ordinance, and all parcels in the City, including the City itself, sharing in paying the cost of the stormwater system, it is believed all critical deficiencies that existed before in the stormwater user fees have been addressed, and it is recommended that Mayor and Council adopt the attached resolution to allow for stormwater system costs to be recovered through a stormwater charge assessed to the residents, businesses and the City of St. Clair Shores.

Mr. Caron questioned the definition item that states "Director of Public Works is the administrator of this Ordinance or such other person as the City Manager may designate". Does this carry through the entire ordinance?

**Item 4 (Cont'd):**

Mr. Ihrie clarified that it does carry through the entire ordinance.

Mr. Caron asked if the appeals process has been developed.

Mr. Coppler said that they are still developing the final pieces of the appeal process. It should be completed within the next week or so.

**Moved by Council Member Rubello, and supported by Council Member Accica to repeal the existing Storm Water Utility Ordinance 25.110 in entirety which reads as follows:**

**O-2021-05 (r)**

**REPEAL IN ENTIRETY OF ORDINANCE 25.110  
STORMWATER UTILITY ORDINANCE Ord. Effective: July 27, 1993**

**THIS ORDINANCE SHALL BE REPEALED IN ENTIRETY WHICH READ AS FOLLOWS:**

25.110 - STORMWATER UTILITY ORDINANCE Ord. Effective: July 27, 1993

25.111 - Definitions.

Sec. 1. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meaning hereinafter ascribed to them:

- (1) *Impervious area.* Land area covered by buildings, pavement or other material that prevents stormwater from penetrating the soil.
- (2) *Pervious area.* All land area that is not impervious.
- (3) *Stormwater.* Atmospheric precipitation, surface water or cooling water.
- (4) *Stormwater system.* Public sewers, drains, ditches, retention ponds, dams, river impoundments and flood control facilities used for collecting and transporting stormwater.
- (5) *EHA.* Effective hydraulic area.

(ord. eff. July 27, 1993)

25.112 - Stormwater service charge.

Sec. 2. All owners of real property in the City of St. Clair Shores shall be charged for the use of a stormwater system based on the amount of stormwater and rate of flow of stormwater which is determined to be entering the stormwater system from the property. The impact of the stormwater from the property on the system shall be determined on the basis of the flat rates or the measurements contained in this chapter.

(ord. eff. July 27, 1993)

25.113 - Flat rate charges.

Sec. 3. The quarterly charges for the following properties shall be:

	CHARGE	BASIS
Single-family residential	\$8.52	Per home
Single-family residential located on waterfront or canal	4.26	Per home
Duplex	4.26	Per unit
Condominium	6.09	Per unit
Apartments	3.65	Per unit

(ord. eff. July 27, 1993; amend. eff. July 1, 1995; further amend. eff. July 1, 1996; July 7, 1998; June 22, 1999; July 13, 2005; June 7, 2006; June 15, 2007; June 16, 2008; June 29, 2010; July 13, 2011; June 6, 2012; July 5, 2013; June 6, 2014)

**Item 4 (Cont'd):**

25.114 - Charges based on land area.

Sec. 4. The quarterly charges for properties other than described above shall be computed in the following manner: \$121.71 per EHA multiplied by the following factors for the acreage of the following types of land area:

0.20 for pervious area

0.95 for impervious area

The minimum quarterly fee per parcel is \$3.65.

(ord. eff. July 27, 1993; amend. eff. July 1, 1995; further amend. eff. July 1, 1995; July 7, 1998; July 13, 2005; June 7, 2006; June 15, 2007; June 16, 2008; June 29, 2010; Aug. 19, 2010; July 13, 2011; June 6, 2012; July 5, 2013; June 6, 2014)

25.114A - Appeals.

The mayor shall appoint, upon confirmation of council, and the council shall confirm a Stormwater Charge Review Board ("Board") to consider appeals by owners of real property upon which a stormwater service charge is imposed. The Board shall meet annually during the month of January. Appeals to the Board shall be limited to the issue of the Equivalent Hydraulic Acreage ("EHA") for the real property which is the subject of the appeal as said EHA has been established by city staff. The Board shall recommend to the City Council the action to be taken in regard to each appeal. The City Council shall then take final action on each appeal.

The Board shall consist of five (5) members including the Director of Community Services or his designee, the Chief Building Official, the City Engineer and two (2) residents of the City of St. Clair Shores. A quorum shall consist of the Director of Community Services or his designee or at least two other Board members.

The factors the Board may consider in evaluating the EHA for the subject property include, but are not limited to, whether downspouts are connected to the sanitary system, whether other measures have been taken by the property owner to eliminate or reduce stormwater from entering the sewer and/or drains on the real property, and whether other information exists indicating that the imperviousness of the property has been incorrectly estimated. However, if information is presented during the appeal which indicates that the subject real property's EHA should be increased instead of decreased, the Board, at its discretion, may recommend that the property's EHA be increased.

A real property owner shall commence an appeal with a written submission to the Director of Community Services setting forth the detailed basis for the appeal, including the EHA which the real property owner claims should apply to the subject property. The Director of Community Services may establish written procedures which address non-substantive procedural aspects of the appeal process. The Director of Community Services shall prepare a written evaluation of the appeal, provide the property owner with a copy and forward the appeal and the evaluation to the Board. The Board, in its discretion, may consider and decide the appeal based on the written submission or may permit an oral presentation. The Board shall maintain a written record with regard to the action taken on each appeal and the basis therefor.

(ord. eff. June 22, 1999)

25.115 - Property affected.

Sec. 5. Except as provided in this section, all real property shall be subject to the stormwater service charges regardless of whether privately or publicly owned. Public streets shall not be subject to stormwater service charges. Nonpublic land having its own private storm sewer which discharges all stormwater directly to Lake St. Clair shall not be subject to stormwater service charges.

(ord. eff. July 27, 1993)

25.116 - Billing.

Sec. 6. The billing for stormwater service will be combined with the billing for other water services. The stormwater charge will appear as an entry on the quarterly water bill. The basis for stormwater service shall be computed by the Director of Community Services.

**Item 4 (Cont'd):**

(ord. eff. July 27, 1993)

25.117 - Collection.

Sec. 7. Unpaid stormwater service charges shall constitute a lien against the property affected. Charges which have remained unpaid for a period of six (6) months prior to March 31 of any year may, after notice to the owner, by resolution of the City Council, be certified to the City Assessor, who shall place the charges on the next tax roll. In the alternative, the City Council may direct the City Attorney to file suit and to collect unpaid charges.

(ord. eff. July 27, 1993)

25.118 - Use of funds.

Sec. 8. All funds collected for stormwater service shall be placed in an Enterprise Fund.

(ord. eff. July 27, 1993)

25.119 - Use of stormwater system.

Sec. 9. No person shall place or cause to be placed any substance into the stormwater system other than stormwater.

(ord. eff. July 27, 1993)

25.120 - Regulations.

Sec. 10. The City Manager may promulgate regulations for the operation, management and maintenance of the stormwater system and for connections to that system. The regulations shall take effect upon approval by the City Council.

(ord. eff. July 27, 1993)

25.121 - Severability clause.

Sec. 11. If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid, such invalidity shall not affect the remaining portions or applications of the Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined to be inoperable, and to this end the Ordinance is declared to be severable.

(ord. eff. July 27, 1993)

Ayes: All – 6

Absent: Rusie

**b. Adoption of new Stormwater Rates & Stormwater Enterprise Fund Ordinance**

**Moved by Council Member Caron, and supported by Council Member Frederick to adopt a new Stormwater System Rates and Stormwater Enterprise Fund Ordinance 25.110 to address and pay the expenses in conjunction with the collection, transport, treatment, and disposal of stormwater runoff from residential, non-residential, and publicly owned properties both of which reads as follows:**

**The City of St. Clair Shores ordains that its Code of Ordinances shall be amended by the adoption of a new ordinance:**

**CITY OF ST. CLAIR SHORES  
MACOMB COUNTY, MICHIGAN  
ORDINANCE NO. O-2021-06**

**AN ORDINANCE TO AMEND THE ST. CLAIR SHORES CITY CODE OF ORDINANCES TO PROVIDE FOR STORMWATER RATES AND STORMWATER ENTERPRISE FUND ORDINANCE AND TO REPEAL ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH**

**Item 4 (Cont'd):**

**THE CITY OF ST. CLAIR SHORES ORDAINS:**

A new Chapter 25.110, Stormwater Rates, Sections 110 through 129, is hereby adopted and shall now read:

This Chapter shall be down as the “Stormwater Rates and Stormwater Enterprise Fund Ordinance” of the City of St. Clair Shores (“City”).

This Chapter establishes a stormwater system rate and the Stormwater Enterprise Fund for the purpose of conducting the City’s stormwater management program to: address and pay expenses in connection with the collection, transport, treatment and disposal of stormwater runoff from residential, non-residential, and publicly owned properties within the boundaries of the City; reduce flooding of privately and publicly owned lands; and protect public health, safety, and welfare; provide for the proportional allocation to property owners of the necessary cost of service of the stormwater system; permit the establishment and collection of just and equitable rates and charges to fund the stormwater system; provide for credits, adjustments, exemptions, and appeals; establish regulations for the use of the stormwater system, and prescribe the powers and duties of certain municipal agencies, departments, and officials.

**25.111**

**Sec.1- Enabling Authorities.**

This ordinance is adopted pursuant to and in accordance with the Revenue Bond Act, Public Act 94 of 1933, as amended, Michigan Compiled Laws Sections 141.101 et seq., the Home Rule City Act, Act 279 of 1909, as amended, Michigan Compiled Laws Sections 117.1 et seq., the St. Clair Shores City Charter, and the City’s National Pollutant Discharge Elimination System (NPDES) Permit; and any applicable State of Michigan laws and regulations.

**Sec. 25.1112 - Findings.**

The City Council finds all of the following:

1. The constitution and laws of the State of Michigan authorize local units of government to provide stormwater management services and systems that will capture and convey storm water and contribute to the protection and preservation of the public health, safety and welfare, and to the protection of the State’s natural resources.
2. The Michigan Revenue Bond Act of 1933, as amended, Michigan Compiled Laws Sections 141.101 et seq., authorizes the City to purchase, acquire, construct, improve, extend or repair storm water systems, including storm sewers, plants, works, instrumentalities, and properties used or useful in collection, treatment, or disposal of storm water (“public improvements”), and to own, operate and maintain the same within or without its corporate limits, and to furnish services, facilities and commodities any such public improvements to users within or without its corporate limits. The powers granted by the Revenue Bond Act may be exercised notwithstanding that bonds are not issued as provided by the Act.
3. The City’s Charter Section 2.6, and the State of Michigan’s Home Rule City Act, 209 PA 279, as amended, Michigan Compiled Laws Sections 117.1 et seq., authorizes the City to regulate the use, improvement, and control of the surface of its streets, alley and public ways, and of the space above and beneath them.
4. The City’s stormwater collection system is comprised of stormwater structures, sewer lines, multiple stormwater pumps and stations, open drainage courses, storage facilities, best management practice (BMP) facilities, and related appurtenances. Currently, throughout the City, there are over 200 miles of storm sewers lines, over 11,700 stormwater structures, approximately 41 stormwater pump station locations, miles of open drains, numerous storage facilities and BMPs (“stormwater system”) that are necessary to prevent flooding of residential and non-residential properties.
5. The land area of the City is relatively low and flat, and the storm sewers discharging to Lake St. Clair are subject to varying water levels dependent on the lake water level, that requires continuous monitoring of both the water levels and precipitation.

**Item 4 (Cont'd):**

6. Properties influence the quantity, character, and quality of stormwater by the nature of the alterations made to real property, use, and possible mitigation of impervious surfaces.
7. Stormwater contributes to the diminution of property values, water quality, adversely impacting residential and non-residential properties, the public health, safety and welfare, and endangering natural resources.
8. Control of the quantity of stormwater from developed and undeveloped property is essential to mitigate the flooding risk of storm water runoff on individual properties.
9. Stormwater runoff transports water pollutants from private and public properties and contributes to the diminution of water quality on private and public properties, adversely impacting the public health, safety and welfare, and endangering natural resources.
10. The Federal Clean Water Act and rules and regulations promulgated thereunder place increased mandates on the City to develop, implement, conduct and make available to its citizens and property owners stormwater management services which address water quality, flow, and volume impacts of stormwater.
11. Water quality is improved by stormwater management measures that control the quantity of stormwater leaving properties and eventually discharging directly or indirectly to receiving waters, that reduce the flow of stormwater, or that divert stormwater from downstream storm systems, sanitary sewers, or combined systems.
12. Residential, non-residential, and publicly owned lands that drain to the City's stormwater system receive a benefit of a properly managed and maintained stormwater management system to collect, transport and dispose stormwater within the City; and the City, having a responsibility to protect the public health, safety, and welfare, has a major role in managing stormwater quantity and regulating stormwater quality.
13. Lack of or improper management of stormwater runoff threatens properties with water damage from flooding and poor water quality adversely impact the health, safety, and welfare, of the property generating the runoff, downstream properties, and the City at large.
14. It is appropriate for the City to administer, design, construct, operate, repair, improve, and maintain the stormwater system, and establish user charges, fees, or rates to offset entirely or in part the cost of the City's stormwater management system, attenuating flooding and compliance with the Federal Clean Water Act and State environmental laws and regulations with a charge that allocates the costs of these services to public and private property owners within the City based upon the extent to which each specific parcel of real property contributes to the need for stormwater management.
15. It is in the interest of protecting residential and non-residential properties from flooding, the waters of the United States and the State of Michigan from pollution, and the public health, safety, and welfare for the City to fund stormwater management with a charge that allocates the costs of these services to public and private property owners based on benefits received to which each parcel of real property contributes to the need for stormwater management.
16. Any owner or occupant of any premises using the City stormwater system shall pay for use at rates determined in this Chapter.

**Sec. 25.113 - Definitions.**

For the purposes of this Chapter, the following words and phrases shall have the meanings described in this section:

1. *Cost of service* means the cost of service for stormwater including the following:
  - (a) administration of the program, which includes billing, collection, customer service, and public involvement and public education activities;

**Item 4 (Cont'd):**

- (b) planning, engineering, acquisition, construction, operation, maintenance, installation, and debt service costs to acquire, construct, finance, operate, and maintain a stormwater system;
- (c) administering the stormwater asset management plan, including updating said plan on a frequent basis.
- (d) acquiring, constructing, improving, enlarging, repairing, enhancing, replacing, financing, operating, and maintaining the stormwater system, together with such indirect and overhead costs which are fairly chargeable to such activities pursuant to accepted governmental accounting principles and practices applicable to the local units of government, including practices required under the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 through 141.440a, and rules and regulations promulgated thereunder;
- (e) creating an operating reserve which will provide essential financial stability to ensure adequate cash flow consistent with accepted governmental accounting principles and practices applicable to the local units of government;
- (f) creating a 3-5 year capital projects reserve for larger planned capital improvement projects identified in the stormwater asset management plan or capital improvement plan that may require more than the funding available in an annual budget;
- (g) undertaking activities required in order to comply with federal and state law and regulations related to stormwater and permits issued thereunder such as MS-4 and NPDES;
- (h) paying drain assessments issued pursuant to Michigan Drain Code of 1956, as amended, to the City by either the Macomb County Public Works Commissioner or drainage district(s) and which are an obligation of the City;
- (i) executing the requirements of the City's NPDES permit that have a particularized benefit to individual parcels; and
- (j) providing public education, or information, or outreach related to the stormwater management program or required by federal or state regulations or required by permits issued to the local unit of government by federal or state regulatory bodies.

**Cost of service does not include:**

- (a) the cost for sanitary disposal whether part or not part of the combined sewer district;
  - (b) repairs to private property in the event of flooding; or
  - (c) any reimbursement to private property owners or construction or maintenance of private property systems.
2. **Customer charge** shall mean a monthly or quarterly base charge that recovers the cost of service for stormwater.
  3. **Director of Public Works** is the administrator of this Ordinance or such other person as the City Manager may designate.
  4. **Footing drain** is a pipe or conduit which is placed around the perimeter of a building foundation for the purpose of admitting ground water.
  5. **Impervious area** means a surface area that is resistant to permeation by surface water. Because precipitation cannot be absorbed by the impervious surface, runoff will be generated that must be managed by the stormwater system. For the purposes of this Ordinance, the following surfaces are considered to be impervious: pavements – including sidewalks, private roads, parking lots, and patios made from concrete, asphalt, brick pavers, and/or stone materials; buildings; athletic courts and

**Item 4 (Cont'd):**

tracks; gravel (or dirt) driveways and parking areas used by vehicles; decks; patios; and other hard surfaces to be determined by the City Engineer.

6. ***Pervious area*** means an area that will allow an amount of surface runoff to percolate into the soil naturally, to the extent possible based on the type of soil and degree of saturation. Large portions of the City have naturally occurring clayey (or loamy) soils near the surface that do not allow high rates of infiltration, so even undeveloped properties will generate some runoff from moderate amounts of rainfall. For the purposes of this Ordinance, the following surfaces are considered to be pervious: grass; gardens; landscape areas without impervious underlying membrane; gravel (or dirt) paths used by pedestrians only; swimming pools (but not the paved surfaces around the pool); pavers set in porous material specifically designed to be pervious; porous pavements specifically designed to be pervious; and other open graded surfaces as determined by the City Engineer.
7. ***Pretreated non-stormwater*** is non-stormwater that requires, under an NPDES permit or the permit provided by this Chapter, pre-treatment (mechanical, physical or chemical) prior to being discharged into the stormwater system.
8. ***Non-stormwater*** is all flows to the stormwater system not defined as stormwater in section 25.113 (12) of this Chapter or as determined by the Director of Public Works. This includes, but is not limited to, cooling water, process water, ground water from a purge well and non-residential swimming pool discharge. Charges for the collection, disposal, treatment, etc. for non-stormwater shall be separate from charges under this Ordinance.
9. ***NPDES*** means National Pollutant Discharge Elimination System, a program to issue permits for discharges to receiving waters, established under the Federal Clean Water Act, 33 U.S.C. §1251 et seq. (1972), and administered by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) or any successor agency of the State of Michigan. Nothing in this Chapter shall be construed to supersede any property's NPDES permit.
10. ***Property*** means any land within the boundary of the City of St. Clair Shores, both publicly and privately owned, including public and private rights of way.
11. ***Property Runoff Potential (PRP)*** is based on hydrologic engineering principle for calculating runoff that use both impervious surface area and pervious surface area to calculate the runoff from a property.
12. ***Stormwater*** means stormwater runoff, snowmelt runoff, footing drain discharges, surface runoff and drainage, and other discharges allowed by administrative regulations.
13. ***Stormwater Enterprise Fund***. Shall be a proprietary fund maintained by the City and shall be accounted for and segregated from the City's General Fund and other proprietary funds. The Stormwater Management Fees collected pursuant to this Chapter shall be deposited in the Stormwater Enterprise Fund and used for the purposes set forth in this Chapter.
14. ***Stormwater rate*** means a charge to property pursuant to this Chapter, intended to offset all or part of the cost incurred by City of preparing and conducting a stormwater management program and operating and maintaining a stormwater system.
15. ***Stormwater management*** means 1 or more of the following:
  - (a) The quantitative control achieved by the stormwater system of the increased volume and rate of surface runoff caused by alterations to the land;
  - (b) The qualitative control achieved by the stormwater system, pollution prevention activities, and ordinances to reduce, eliminate or treat pollutants that are carried by stormwater; and
  - (c) Public education, information, and outreach programs designed to educate and inform the public on the potential impacts of stormwater.

**Item 4 (Cont'd):**

16. ***Stormwater management program*** means 1 or more aspects of stormwater management undertaken for the purpose of reducing flooding of residential and non-residential properties, complying with applicable federal, state and local law and regulation and the protection of private lands, the public health, safety, and welfare related to stormwater runoff.
17. ***Stormwater Management System*** means roads, streets, catch basins, curbs, gutters, ditches, storm sewers and appurtenant features, lakes, ponds, channels, swales, storm drains, canals, creeks, catch basins, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levees, pumping stations, and other like facilities, and natural watercourses and features located within the geographic limits of the City which are designed or used for collecting, storing, treating or conveying stormwater or through which stormwater is collected, stored, treated or conveyed, or any other physical means by which stormwater management is achieved.

**Sec. 25.114 - Establishment of a Stormwater Management Fee.**

A Stormwater Management Fee is hereby established and shall be under the direction of the Director of Public Works, who is responsible for administering the stormwater management program of the City. The stormwater management program shall include those activities necessary to protect residential and non-residential properties from flooding, public health, safety, and welfare from stormwater, and fulfill the requirements of the City of St. Clair Shores' stormwater NPDES permit, and all successor permits, including but not limited to the following activities:

1. Planning, engineering, acquisition, construction, operation, maintenance, installation and debt service costs to acquire, construct, finance, operate and maintain a stormwater system.
2. Administering the stormwater management program.
3. Acquiring, constructing, improving, enlarging, repairing, enhancing, replacing, financing, operating and maintaining the stormwater system, together with such indirect and overhead costs which are fairly chargeable to such activities pursuant to accepted accounting principles and practices applicable to the local unit government, including practices required under the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 through 141.440a, and rules and regulations promulgated thereunder.
4. Creating an operating reserve which will provide essential financial stability to ensure adequate cash flow for larger capital improvement projects that may require more than the funding available in an annual budget.
5. Developing a stormwater management program, as identified in section 25.113 (16) of this Chapter.
6. Undertaking activities required in order to comply with federal and state law and regulations related to stormwater and permits issued thereunder.
7. Paying drain assessments issued pursuant to Michigan Drain Code of 1956, as amended, to the City by either the Macomb County Public Works Commissioner or drainage district(s) and which are an obligation of the City.
8. Providing public education, or information, or outreach related to the stormwater management program or required by federal or state regulations or required by permits issued to the local unit of government by federal or state regulatory bodies.

**Sec. 25.115 - Stormwater management plan.**

The Director of Public Works may adopt, amend, or extend a stormwater management plan from time to time. Any such adoption, amendment, or extension shall be approved by resolution of the Council.

**Sec. 25.116 - Stormwater rates, general.**

**Item 4 (Cont'd):**

1. Subject to the provisions of this Chapter, all owners of property in the City that receive a particular benefit from the City's stormwater system shall be charged stormwater rate for their use of the stormwater system. The stormwater rate shall be proportionate to the necessary cost of the stormwater management services provided to each property in the City. The stormwater rate will be allocated to all properties in the City that contribute stormwater into the City's stormwater management system based on property runoff potential (PRP) and conveyed to the stormwater management system. Each property's share of the stormwater system's revenue requirement will be proportional to the property runoff potential of that property, which is based on the size of the property and the amount of impervious surface area on the property. Possible reductions in the stormwater rate, including reducing the property runoff potential to zero and corresponding fee of \$0, due to best management practices (BMPs), connections directly to Lake St. Clair or its tributaries, or retention and infiltration practices shall be considered. Every property owner shall have the right to an appeal and review of the PRP determination for their specific property as provided in this Chapter.
2. The basis for stormwater rates shall be computed by the Director of Public Works and approved annually by the City Council. The Stormwater rates shall be fair and equitable using generally acceptable rate-setting methodology that: (1) considers cost of service requirements necessary to purchase, acquire, administer, construct, improve, extend or repair of the City's stormwater management system and to own, operate and maintain the same within its corporate limits, and to furnish services, facilities and commodities any such public improvements to users within its corporate limits; (2) allocates revenue requirements to customer classes of service in a fair and equitable manner; and (3) considers the rate-design for determining to recover costs from each customer class, and updated from time to time. The stormwater rate shall be adopted each year and approved prior to or at the time the City approves its annual budget.
3. The stormwater rates shall be applied quarterly or a regular interval service charge, shall be determined by the provisions of this Chapter, and may be changed from time to time by Council.
4. Revenue generated from the stormwater rates shall be used solely to defray the City's cost of its stormwater management program as set forth in this Chapter.
5. Stormwater rates are in addition to any ad valorem tax, special assessment, single lot assessment or public improvement charge that might be or become due for capital improvements to the stormwater system.

**Sec. 25.117 - Stormwater discharge rate.**

1. Each property discharging stormwater into the City's stormwater system, either directly or indirectly, shall be charged an amount proportionate to the representative quantity of stormwater generated by that property based on the calculated PRP of the property as described in the "City's Storm Water Apportionment Study" The PRP dictates that surfaces will generate runoff during precipitation events and can be assigned a runoff coefficient to represent the fraction of precipitation that results in runoff. The City runoff coefficient shall be based on accepted practices for calculating runoff, as referred in the "Handbook of Applied Hydrology: A Compendium of Water resources", Choe, 1964. The runoff coefficient used for pervious surfaces, which is considered to be the total area of a given property minus the impervious area of a given property, is 0.20. The runoff coefficient value of 0.20 means generally that 20% of the precipitation on that surface will result in runoff. PRP is measured in square feet, using the following formula:

Property Runoff Potential (sft) = 0.20 multiplied by the Total Impervious Area within the City plus 0.9 multiplied by the calculation of Impervious Area for a particular property within the City.

**Sec. 25.118 - Other charges.**

Charges for other services provided by the City shall be on a time and materials basis, including direct and indirect costs, as established by the Director of Public Works and published on the City's website. The Director of Public Works may also set charges for the fair share recovery of the cost, including direct and indirect costs, from users for the implementation and operation of any of the following:

**Item 4 (Cont'd):**

1. Monitoring, inspection and surveillance procedures;
2. Reviewing accidental discharge procedures and construction;
3. Discharge permit applications for stormwater and non-stormwater;
4. Annual charges for multi-year permits; and
5. Other charges as the Director of Public Works may deem necessary to carry out the requirements of this Chapter.

**Sec. 25.119 - Credits.**

1. The purpose of this section is to provide for each property owner's control over contributions of storm flows to the stormwater system and the related stormwater rates and to advance the protection of their property.
2. The City shall offer credits that will enable any property owner, through voluntary action, to reduce or eliminate the stormwater rates calculated for that property owner's property and will provide a proportionate reduction in the cost of service to the stormwater system, or that shall be reasonably related to a benefit to the stormwater system:
  - a. Credits will only be applied if requirements outlined in this Ordinance are met, including, but not limited to: completion of on-going maintenance, guaranteed right-of-entry for inspections.
  - b. Credits will be defined as a reduction of impervious surfaces, disconnection or impervious or pervious surfaces, installation of BMPs, or all services in the PRP calculation.
  - c. Credits are additive for each credit category.
  - d. As long as the stormwater facilities or management practices are functioning as approved, the credit will be applied to the PRP. If the approved practice is not functioning as approved or is terminated, the credit will be cancelled, the PRP recalculated, and the charge/rate will return to the baseline calculation. Once the credit reduction has been cancelled, a customer may must reapply for credit for a when the deficiency has been corrected, as determined by City inspection.
  - e. Credits will be applied to the next complete billing cycle after the application has been approved.
3. The Director of Public Works shall define a method for applying and granting credits, as well as criteria for determining the credits a property owner may receive. The Director of Public Works may by regulation establish credits for 1 or more of the following Best Management Practices (BMPs):
  - a. Installation of any BMP that does not overtop in a 10-year storm event and detains that event to an outflow rate of 0.2 cfs/Ac. Area that can be detained to this outflow will be credited by taking the area of impervious tributary to the BMP and redefining it as a pervious area in the PRP calculation (10-Year Storm Event – 3.55 inches/hour rainfall intensity);
  - b. Installation of any BMP that does not overtop in a 100-year storm event and detains the event to an outflow of 0.2 cfs/Ac will be credited by taking that area of impervious tributary to the BMP and removing that area from the calculation altogether by making that impervious area 0 and only assessing the property for the remaining area not tributary to the BMP, both pervious and impervious area (100-Year Storm Event – 5.25 inches/hour rainfall intensity);

**Item 4 (Cont'd):**

- c. Any property that does not outlet stormwater to the system at all by retaining stormwater on-site during a 100-year event or discharging to a location other than a City or County sewer, such as a lake, canal or other retention system, the total runoff potential can go to 0;
- d. Other actions of the property owner that, in the judgment of the Director of Public Works, result in a measurable reduction in stormwater runoff.

**Sec. 25.120 - Public Properties; General Fund Obligation.**

All publicly-owned property, including but not limited to City-owned parks, parking lots, and streets that benefit from the use of the City's stormwater system, shall be charged to the appropriate governmental or public entity, in accordance with their PRP. The stormwater rate attributable to publicly-owned land that contributes stormwater to the City's stormwater system that cannot be directly charged a stormwater rate to a governmental or public entity pursuant to law, shall be the obligation of the City's General Fund. The General Fund shall also be allocated costs associated with the generalized public benefit of water quality and pollution prevention activities.

**Sec. 25.121 - Exemptions.**

Properties that do not utilize the City's stormwater system shall be exempt from the stormwater rate.

**Sec. 25.122 - Billing.**

The City shall bill property owners and authorized tenants for stormwater systems on a quarterly basis combined with the billing for other City services.

**Sec. 25.123 - Stormwater enterprise fund.**

1. All revenues raised from stormwater rates, fees, and charges shall be restricted and placed in a Stormwater Enterprise Fund together with such other revenues from any source or combinations of sources of revenues otherwise legally available which have been designated to be used for the stormwater management program.
2. No part of the funds held in the stormwater enterprise fund may be transferred to the general operating fund or used for any purpose other than undertaking the stormwater management program and operating and maintaining a stormwater system. However, the City may charge the Stormwater Enterprise Fund reasonable expenses provided by City departments (by way of example: accounting, information technology) and officials that performed related services. The City may allocate such expenses for services in accordance with generally accepted governmental accounting practices.

**Sec. 25.124 - Use of stormwater system.**

1. The primary use of the stormwater collection system shall be the collection, transportation and disposal of stormwater, and where, or if, required by federal and state law, treatment of stormwater.
2. Except by agreement approved by the City Council, the City shall not furnish use of the stormwater system to users outside City limits.
3. Generally, no person, property, or firm shall cause or permit the introduction of any substance into the stormwater system, whether solid, liquid or gaseous, that will cause:
  - a. Chemical reaction, either directly or indirectly with the materials of construction used in the stormwater system or that will impair the strength or durability of sewers or structures;
  - b. Mechanical action that will destroy or damage sewers or structures;
  - c. Restriction of the normal maintenance and inspection of sewers;
  - d. Danger to public health and safety or to the environment;

**Item 4 (Cont'd):**

- e. Conditions that create a public nuisance;
  - f. An oil sheen or unusual color;
  - g. Abnormal demand on the stormwater system capacity; or
  - h. The stormwater system to violate its NPDES permit or applicable receiving water standards and all other federal, state, and local regulations.
4. No person shall discharge into the stormwater system any treated non-stormwater that is subject to a discharge prohibition unless the discharge is authorized under permits issued by EGLE and the City.
5. No person shall use the storm water system for discharge from any environmental cleanup that is regulated under Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, unless approved by City Council. Approval by City Council must be conditioned upon the discharge meeting all criteria for discharge under this Chapter. Approval conditions may provide for measures appropriate to preventing harm due to possible exfiltration into the ground adjacent to the system or failure of any pretreatment system for the discharge.

**Sec. 25.125 - Regulations.**

1. The Director of Public Works may adopt regulations implementing this Chapter. These regulations may include, but not be limited to, the following topics:
- a. The design, operation, management, and maintenance of the stormwater system and for connections to that system.
  - b. Control of the quality and quantity of stormwater from industrial sites by establishing management practices, design, and operating criteria.
  - c. Criteria used to determine whether the stormwater rate will be billed to the property owner or the occupant(s) of a property, including criteria that will be used to determine how to allocate the stormwater rate to multiple occupants of a single property.
  - d. Procedures for updating billing data base upon changes in property boundaries, ownership, and stormwater runoff characteristics.
  - e. Billing and payment procedures of the stormwater system that define the billing period, and billing methodology.
  - f. Policies establishing the type and manner of service delivery that will be provided by the stormwater system.
  - g. Regulations governing the resolution of stormwater management issues among several property owners within the district.
  - h. Procedures for establishing, evaluating, and refining any credits granted according to criteria in section 25.119, and appeals as defined according to criteria in section 25.119 (3).
  - i. Enforcement policies and procedures.
2. These regulations shall take effect 30 days after being filed with the City Clerk unless modified or disapproved by the City Council. Regulations which are modified by City Council take effect 30 days after the modification.

**Sec. 25.126 - Stormwater taps.**

**Item 4 (Cont'd):**

1. Except for public services area employees, only City of St. Clair Shores registered plumbers, licensed sewer installers, and bona fide homeowners, after first obtaining all necessary permits including but not limited to a plumbing permit, storm sewer tap permit, and storm sewer permit based in size of pipe being installed, are authorized to uncover the stormwater system so that existing pipes and structures installed during public stormwater system construction may be utilized.
2. All costs and expense incidental to the installation, connection, and maintenance of the stormwater tap and lead shall be borne by the property owner(s).

**Sec. 25.127 - Right of appeal.**

The Director of Public Works shall establish a procedure for the submission of appeals and the adjustment of the customer's stormwater rates. This procedure shall provide the following:

1. A property owner or occupant liable for a stormwater rate shall be provided the right to appeal. Appeals shall be considered on the grounds that the stormwater generated by the property and discharged into the stormwater system is less than estimated by the Director of Public Works. No appeal may be brought with respect to a stormwater rate more than 1 year after the rendering of the bill for which an appeal is sought.
2. For an appeal to be successful, the property owner or occupant shall demonstrate that the stormwater generated by the property runoff potential (PRP) is less than the amount used by the Director of Public Works in the calculation of that property's stormwater rate. Factors that will be considered by the Director of Public Works include the impervious area of the property, the activities of the property owner or features of the property that are available for credit, the amount of direct discharge to the stormwater system, or other factors defined by the Director of Public Works.
3. A property owner or occupant must comply with all rules and procedures adopted by the Director of Public Works when submitting a request for appeal or adjustment of the stormwater utility charge and must provide all information necessary to make their determination.
4. Upon a finding that the stormwater generated by a property is less than the amount used by the Director of Public Works in the calculation of that property's stormwater rate, the sole remedy to the property owner shall be re-calculation of the stormwater rate charge based on the corrected level of stormwater.
5. A finding that the stormwater generated by a property is not less than the amount used by the Director of Public Works in the calculation of that property's stormwater rate shall be conclusive with respect to that property and shall remain effective, unless the property owner changes the impervious area or the stormwater management practices of the property. The property owner shall remain eligible for credits and exemptions under this Chapter.

**Sec. 25.128 - Landlord-tenant.**

The property owner may request, subject to the approval of the Director of Public Works, that the stormwater rate be billed to the owner's designated tenant. The Director of Public Works may direct billing to the tenants of a property if the tenants are currently billed for water or sanitary sewer service. The property owner shall be liable for payment even if the stormwater rates are billed to the tenant of the property.

**Sec. 25.129 -  
a. Enforcement.**

1. No person shall construct or maintain any property, residence or business not in compliance with the standards of this Chapter.
2. The Director of Public Works and other authorized employees of the City bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter.

**Item 4 (Cont'd):**

3. No person shall fail to provide any report or other information or perform any duty required by this Chapter.
4. The City Attorney is authorized to take appropriate legal action to require compliance with this Chapter.
5. If, after reasonable notice, a person fails to comply with this Chapter, the City may cause the work to be done to obtain compliance and shall charge the cost of that work to the person responsible.
6. If any person fails to pay any rates, fees, or charges required by this Chapter, the amount may be assessed against the property involved in accordance with Chapter 9 of this Code.
7. The Director of Public Works is authorized to take all steps necessary to immediately halt any discharge of pollutants which reasonably appears to present an imminent danger to the health or welfare of persons or to the environment.
8. In case of an emergency involving private stormwater facilities, the Director of Public Works may direct that immediate action be taken to correct or abate the condition causing the emergency. City personnel may perform the required work and charge the appropriate owner(s) all such related and provable costs. Such costs (if remaining unpaid for 30 days following a bill being sent for their reimbursement) shall constitute a lien on the real property.
9. A person who violates any provision of this Chapter shall be responsible for a civil infraction for which the court may impose a civil fine of not more than \$10,000.00 per day of violation plus all costs, direct or indirect, which the City has incurred in connection with the violation, including but not limited to fines paid by the City. Each day a violation occurs is a separate violation.

**Sec. 25.129**

**b. Conflict.**

In the event of a conflict between a provision of this Chapter and any other portion of the City Code, the provisions of this Chapter shall prevail.

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 boards in the Police Station, 27665 Jefferson Avenue, the Fire Hall, 26700 Harper Avenue, and the City Hall, 27600 Jefferson Avenue.

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 19th day of April, 2021, and that the necessary Charter provisions have been observed.

**KIP C. WALBY, MAYOR**

**MARY A. KOTOWSKI, CITY CLERK**

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 Avenue on the 28th day of May, 2021.

**MARY A. KOTOWSKI, CITY CLERK**

Ayes: All – 6  
Absent: Rusie

**5. PLANNING CASE PPC210005 REQUEST FOR SITE PLAN APPROVAL AT 20660 NINE MILE FOR A NEW GAS STATION WITHIN THE PARKING LOT OF THE NEWLY CONSTRUCTED KROGER STORE AT 22801 HARPER**

**Background:** The request was for approval of the site plan for a Kroger gas station at 20660 Nine Mile represented by Matthew Pisko of Sevan Multisite Solutions.

**Item 5 (Cont'd):**

The applicant requested Site Plan Approval for a new gas station fronting Nine Mile Road which includes 9 pump stations, a canopy, and a 180 square foot transaction kiosk. The site plan proposes a layout for 9 pumps that can dispense fuel to 18 vehicles under a 160 foot by 43 foot canopy. The transaction kiosk is proposed to be constructed at the rear of the canopy and made of brick. The gasoline canopy columns are proposed to be constructed of brick bases with decorative columns above. Parking is proposed on the east side of the canopy. Other amenities on site are proposed to include a propane tank exchange, compressed air for inflating tires, windshield cleaning dispensers, site configuration which allows for maneuverability of a full sized truck with up to a 28 foot boat trailer, a brick knee wall, and landscaping including underground irrigation.

Matthew Pisko, Sevan Multisite Solutions, gave a quick update on the request from Kroger for a fuel station. This will be a \$2 million investment.

Mayor Walby thanked Kroger for the beautiful new Kroger store. He said that when the Kroger representatives were at the September 5, 2017 Council meeting, they stated that purchasing the vacant gas station on the corner was not an option, and there was "no ability to put a gas station on that site" and "does not allow for fuel on the site". On June 4, 2018, Council approved a Shell gas station at the corner of 9 Mile and Harper. He is very concerned that a Kroger gas station so near the current gas station may put it out of business. He finds it inappropriate to exercise power for monetary gain that may put a current business out of business after having made a substantial investment. We have worked very hard to improve that corner. That corner could be developed into all kinds of businesses. He is not in favor of approving a Kroger gas station on that site.

Mr. Vitale agreed with Mayor Walby and noted that Kroger has kept the lease at 13 Mile and Harper, and they will not accept a sublease with a competitor. We have someone who invested a great deal of money into a gas station, and Kroger wants to put a bigger gas station right next to it. He appreciates the investment of Kroger but cannot support putting a gas station so near an existing gas station.

Mr. Rubello agreed Kroger has done great things in our community, but he is not in favor of having two gas stations so close together lined up from Harper going west on the same side of the street.

Mr. Caron said he fully agrees with the with Mayor in terms of the statements made by Kroger in 2017. We wanted them to do the full site, and they said they could not. He also agreed that the 13 Mile and Harper site has a clause that they cannot lease to a competitor, but they are asking the Council to approve competitor gas stations next to each other.

Mr. Accica agreed with his fellow Council members. He cannot support a gas station at that location. People will use their points at the Kroger station which may drive the current gas station out of business.

Mr. Pisko said that in 2017 there were lease restrictions with that property. They tried several layouts which did not work. They were restricted from developing on that corner for legal reasons. There was nothing specious going on. As it relates to competition, they are not competing with the existing station's business model. The Shell station has a convenience store and brand loyalty. This is a completely different business model. They are offering a complimentary business.

Mr. Frederick asked if there is a Kroger gas station closing in St. Clair Shores.

Mr. Pisko said the station at 13 Mile and Harper will close. The 9 Mile and Jefferson station will remain open.

Mr. Frederick shared the same concerns as the other Council members. He noted that the Kroger gas station at 9 Mile and Jefferson was very busy today, and the station across the street was empty. He said the Kroger gas station business model is not that different than the Shell station. We have spent a lot of time, energy and money to fix up that corner. He asked if Kroger can figure out a way to work with the existing gas station.

Mr. Pisko said he cannot address that this evening. They have not had any contact with that business.

**Item 5 (Cont'd):**

Mr. Vitale suggested they partner/purchase/co-brand with the existing gas station and do a scaled down version of their station offering the E0 gas and trailer layout.

Mayor Walby asked if they would act as a good corporate citizen and withdraw this request and reconsider what type of development they are proposing for this site. We feel that another gas station is not a good option for that area.

Mr. Pisko said he does not have permission to withdraw this request.

**Moved by Council Member Rubello, and supported by Council Member Caron to DENY the request for site plan approval for a new gas station within the parking lot of the newly constructed Kroger store at 22801 Harper including the items of concern; parking lot plans including paving and drainage are required for building permit submittal, all new pole lighting must be the St. Clair Shores standard nautical light pole, all canopy lighting must be flush or recessed from the canopy, all exterior lighting is required to reach 0 foot candles at the property line and shall be properly shielded from any residential properties, ensuring the placement of the knee wall along Nine Mile Road matches the knee wall placement and finishes on the remainder of the site, all waste storage shall be discreetly screened from view, and a no left turn sign placed at the east approach.**

Ayes: All – 6

Absent: Rusie

**6. PLANNING CASE PPC210004 REQUEST FOR APPROVAL FOR THE 2021-2022 COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL ACTION PLAN AND BUDGET**

**Background:** The recommendation was to approve the 2021-2022 Community Development Block Grant Annual Action Plan and Budget.

The City of St. Clair Shores is a Community Development Block Grant Entitlement Community, which means we receive an annual allocation of grant funds from the US Department of Housing and Urban Development to assist low to moderate income residents. A maximum of 20% of the grant can be spent on administrative activities and a maximum of 15% can be spent on public services. The Planning Commission conducted a public hearing on March 9, 2021. Review and approval of the budget occurred in front of the Planning Commission on March 23, 2021. The public hearing was to review and approve the projects and activities proposed for the next program year.

Mayor Walby noted that the Senior Center renovation loan payment comes from these funds.

Ms. Koto will provide Council with the HUD definition of “infrastructure” for the use of CDBG funds.

**Moved by Council Member Caron, and supported by Council Member Accica to approve the 2021/2022 Community Development Block Grant budget and Annual Action Plan as follows:**

<u>Activity Name</u>	<u>2021/2022 Budget</u>	<u>Prior Years Reprogrammed</u>	<u>Total Budget</u>
Section 108 Payment	\$132,435.18		\$132,435.18
Senior Activity Center Operations	85,000.00		85,000.00
Amelia Agnes Transitional Home (requested \$12,500)	10,000.00		10,000.00
Wigs 4 Kids (requested \$2,000)	1,500.00		1,500.00
The Lake House/Gilda’s Club (requested \$7,000)	5,250.00		5,250.00
Macomb County Grass & Snow (requested \$20,000)	15,000.00		15,000.00
Turning Point (requested \$1,500)	1,125.00		1,125.00
Care House (requested \$13,200)	9,900.00		9,900.00
MCREST (requested \$6,500)	4,875.00		4,875.00
SCS Hockey Player Enablement Fund (requested \$10,000)	7,500.00		7,500.00
MCWARM St. Margaret’s of Scotland (requested \$5,000)	3,750.00		3,750.00
Administration	180,000.00		180,000.00
Street and Infrastructure Repair	422,524.82		422,524.82
<b>Amount Budgeted</b>	<b>878,860.00</b>		<b>878,860.00</b>
<b>Amount Available</b>	<b>878,860.00</b>		
<b>Total Remaining</b>	<b>0</b>		

Ayes: All – 6

Absent: Rusie

**7. REQUEST FOR AMENDMENT TO SIGN LIGHTING AND DISPLAY ORDINANCE 19.150**

**a. Murals**

**Background:** The recommendation was to approve an amendment to the Sign Lighting and Display Ordinance 19.150 to allow murals. The Sign Ordinance Review Team has determined an amendment to the Sign, Lighting, and Display Ordinance is recommended to allow commercial businesses and commercial property owners to paint murals on their buildings. This ordinance was reviewed for compliance with the United States Supreme Court decision of Reed vs. Town of Gilbert from 2015. The decision clarified when municipalities may impose content-based restrictions on signage. The case also clarified the level of constitutional scrutiny that should be applied to content-based restrictions on speech. This ordinance amendment was crafted to ensure the evaluation of murals is considered content neutral, therefore the amendment only restricts murals based on size, location, and time.

Mr. Vitale commented that these three changes to ordinance 19.150 will require a great deal of discussion and suggested they be discussed at a study session.

**b. Wall Signs**

**Background:** The recommendation was to approve an amendment to the Sign Lighting and Display Ordinance 19.150 to change the method of measurement of wall signs.

The Sign Ordinance Review Team recommended amendment to the Sign, Lighting, and Display Ordinance to allow multiple signs on the same elevation to be calculated separately then added together to obtain the total signage calculation for the wall. Currently, the method for calculating the square footage of a wall sign is to draw an imaginary rectangle around all signs and calculate the total square footage of the rectangle. The new method of calculating the size of each sign would allow for more flexibility in the size and location of signs placed on walls.

This ordinance was reviewed for compliance with the United States Supreme Court decision of Reed vs. Town of Gilbert from 2015. The decision clarified when municipalities may impose content-based restrictions on signage. The case also clarified the level of constitutional scrutiny that should be applied to content-based restrictions on speech. This ordinance amendment was crafted to ensure the evaluation of wall signs is considered content neutral, therefore the amendment only restricts signage based on size, location, material, and time.

**c. Gas Station Signs**

**Background:** The recommendation was to approve an amendment to the Sign Lighting and Display Ordinance 19.150 to modify the types of signage allowed at gas stations.

The Sign Ordinance Review Team has determined an amendment to the Sign, Lighting, and Display Ordinance is recommended to allow more and varied signage at gas stations. Currently, signage is only permissible on the canopy, on the building, and on the dispenser to identify the grade of gasoline. The revisions would allow, without a permit, signs affixed to or on top of dispensers and on canopy columns. The amendment would also allow the use of television/video components within dispensers.

This ordinance was reviewed for compliance with the United States Supreme Court decision of Reed vs. Town of Gilbert from 2015. The decision clarified when municipalities may impose content-based restrictions on signage. The case also clarified the level of constitutional scrutiny that should be applied to content-based restrictions on speech. This ordinance amendment was crafted to ensure the evaluation of gas station signage is considered content neutral. Therefore the amendment only restricts signage based on size, location, material, and time.

**Moved by Council Member Vitale, and supported by Council Member Accica to TABLE Items #7a, #7b and #7c to amend Chapter 19.150 Sign Lighting and Display ordinance to allow murals, walls signs and gas station signs.**

Ayes: All – 6  
Absent: Rusie

**7.1 RESOLUTIONS FOR THE APPLICATION OF WAIVER OF UNDERFUNDED STATUS**

**a. General Employees Retirement System**

**Item 7.1 (Cont'd):**

**Background:** The recommendation was that Council adopt a resolution approving the Application for Waiver and Plan for the General Employees Retirement System, and, also authorize the City Manager to sign off on the plan.

In December 2017, the State of Michigan approved *Public Act 202 – Protecting Local Government Retirement and Benefits Act*.

Each year in December, the City must submit to the State the current funding status of the Pension and Retiree Health Care Trusts plans. At audit, the General Employees Retirement System was at 58.6% funding. The State's threshold for being underfunded is 60%.

However, the Actuary Valuation report for 6/30/2020 shows the funding status is at 61.5%, therefore we are asking for a waiver on this plan.

PA 202 requires that we provide proof that the governing body approves this *Application for Waiver and Plan (aka Form 5583)*.

Mayor Walby asked Ms. Stowell to see if GRS can change the valuation report delivery so the City meets the PA 202 requirements.

Ms. Stowell will review if the City can develop its own reasonable calculation of our pension funded values for both systems.

Mr. Caron noted the date in the resolution needs to be changed to 2020 from 2021.

**Moved by Frederick, supported by Accica to adopt the resolution approving the Application for Waiver and Plan (Form 5583) for the St. Clair Shores General Employees Retirement System, which reads as follows:**

**WHEREAS, the State of Michigan has adopted legislation known as the Protecting Local Government Retirement and Benefits Act of 2017, and**

**WHEREAS, that Act makes provision for submittal of an Application for Waiver and Plan no later than April 28, 2021, and**

**WHEREAS, the City of St. Clair Shores is desirous of submitting an Application for Waiver and Plan for the General Employees Retirement System.**

**WHEREAS, the waiver is being requested based on the following, as outlined in the Application,**

- 1. The plan is now closed. New hires after 2008 are enrolled in a defined contribution plan.**
- 2. The June 30, 2020 Actuarial Valuation shows that the plan funding is now 61.5%, surpassing the threshold of 60%.**

**THEREFORE, BE IT RESOLVED THAT the City of St. Clair Shores City Council hereby:**

- 1. Authorizes the City Manager, Matthew W. Coppler, to sign the application form that has been approved.**
- 2. Authorizes the City Manager to submit the application form and necessary documentation to the Department of Treasury by April 28, 2021.**

**I, Mary A. Kotowski, the duly qualified and appointed City Clerk of St. Clair Shores, Macomb County, Michigan do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council on Monday, April 19, 2021, the original of which is on file in my office.**

**MARY A. KOTOWSKI, CITY CLERK**

Ayes: All – 6  
Absent: Rusie

**Item 7.1 (Cont'd):**

**b. Police & Fire Retirement System**

**Background:** The recommendation was that Council adopt a resolution approving the Application for Waiver and Plan for the Police and Fire Retirement System, and also authorize the City Manager to sign off on the plan.

In December 2017, the State of Michigan approved Public Act 202 – Protecting Local Government Retirement and Benefits Act.

Each year in December, the City must submit to the State the current funding status of the Pension and Retiree Health Care Trusts plans. At audit, the Police and Fire Retirement System was at 57.7% funding. The State's threshold for being underfunded is 60%.

However, the Actuary Valuation report for 6/30/2020 shows the funding status is at 60.7%, therefore we are asking for a waiver on this plan.

PA 202 requires that we provide proof that the governing body approves this Application for Waiver and Plan (aka Form 5583).

**Moved by Frederick, supported by Accica to adopt the resolution approving the Application for Waiver and Plan (Form 5583) for the St. Clair Shores Police and Fire Retirement System, which reads as follows:**

**WHEREAS, the State of Michigan has adopted legislation known as the Protecting Local Government Retirement and Benefits Act of 2017, and**

**WHEREAS, that Act makes provision for submittal of an Application for Waiver and Plan no later than April 28, 2021, and**

**WHEREAS, the City of St. Clair Shores is desirous of submitting an Application for Waiver and Plan for the General Employees Retirement System.**

**WHEREAS, the waiver is being requested based on the following, as outlined in the Application,**

- 1. The City continues to make an additional 3% contribution to the plan each year and**
- 2. The June 30, 2020 Actuarial Valuation shows that the plan funding is now 60.7%, surpassing the threshold of 60%.**

**THEREFORE, BE IT RESOLVED THAT the City of St. Clair Shores City Council hereby:**

- 1. Authorizes the City Manager, Matthew W. Coppler, to sign the application form that has been approved.**
- 2. Authorizes the City Manager to submit the application form and necessary documentation to the Department of Treasury by April 28, 2021.**

**I, Mary A. Kotowski, the duly qualified and appointed City Clerk of St. Clair Shores, Macomb County, Michigan do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council on Monday, April 19, 2021, the original of which is on file in my office.**

**MARY A. KOTOWSKI, CITY CLERK**

Ayes: All – 6  
Absent: Rusie

**8. BIDS/CONTRACTS/PURCHASE ORDERS**

- a. Updates and Improvements to the Veterans Memorial Park Splashpad  
Mayor Walby noted this item will be brought back to the first meeting in May.**
- b. Request to award Paving contract for Hanson Court (Bids opened April 6, 2021)**

**Item 8 (Cont'd):**

**Background:** The recommendation was to award the Hanson Ct. Road Reconstruction to Florence Cement Company in the amount of \$750,449.19.

Hanson Court is rated 3 on the PASER and is part of this year's road millage program. The road is being reconstructed in conjunction with the water main, lead service line replacement and meter well elimination.

Mr. Rayes noted the lowest bidder did not meet the qualifications of the bid process at the time the bids were opened. They came back to us a couple days later with an option that would meet the bid qualifications, but it was not appropriate for us to accept this after the bid opening.

**Moved by Council Member Rubello, and supported by Council Member Caron to approve awarding the Hanson Ct. Road Reconstruction to Florence Cement Company in the amount of \$750,449.19, as recommended by the City Manager.**

Ayes: All – 6  
Absent: Rusie

**c. Request to Award Contract for Building Inspection Services (Bids opened March 9, 2021)**

**Background:** The recommendation was to award the contract for Professional Building Inspection/Plan Review Services and Construction Inspector to the City of Roseville for a 5-year period (bids opened 03/09/2021).

An RFP was placed on MITN. The City of Roseville was the only bidder (for all services). They are currently our service provider and have provided us with excellent service.

Mr. Rayes noted that we did ask for lump sum fees this time when it was put out for bid. Roseville was the only bid we received. They had an explanation as to why their rates went up and offered a reduction of one-half percent in cost for all inspectors as well as a one-half percent decrease in the amount their rates would go up each year if we go with a five year contract.

Mr. Vitale said he is not comfortable going with a five year contract.

Mr. Frederick questioned the term "prorated" as it is used in the termination clause.

Mr. Ihrie explained that means they get paid for the services they have performed up to the date of termination.

Mr. Rayes noted that the language in front of Council does not reflect the lower price offered if we go with the five year contract. There will have to be a change in the contract language if this is approved.

Mr. Ihrie will review the contract language for the Building Inspection Services contract.

**Moved by Council Member Frederick, and supported by Council Member Accica to award the RFP for Professional Building Inspection/Plan Review Services and Construction inspectors to the City of Roseville for the 5-year period bid (bids opened 03/09/2021), subject to contract language review by the City Attorney.**

Ayes: All – 6  
Absent: Rusie

**d. Request Approval to sell vacant tax foreclosed parcel at 21707 Harper Lake**

**Background:** The recommendation was to approve the of sale of the vacant lot at 21707 Harper Lake (2019 Tax Foreclosure) in the amount of \$22,000.00.

The home and garage were demolished as part of the Blight Program and the property subsequently acquired in July 2019 from the Macomb County Treasurer's Office, as part of the tax foreclosure program. The parcel was listed for sale in February 2020.

Mr. Rayes noted that the brick requirement for this parcel was not relaxed as the neighborhood does consist of brick homes. A garage is a requirement of the purchase agreement.

**Item 8 (Cont'd):**

**Moved by Council Member Rubello, and supported by Council Member Caron to approve the sale of the vacant lot at 21707 Harper Lake (2019 Tax Foreclosure) in the amount of \$22,000.00, as recommended by the City Manager.**

Ayes: All – 6  
Absent: Rusie

**e. Request Approval to sell vacant tax foreclosed parcel at 21907 Revere**

**Background:** The recommendation was to approve the of sale of the vacant lot at 21907 Revere (2018 Tax Foreclosure) in the amount of \$25,000.00.

This property was acquired in July 2018 from the Macomb County Treasurer's Office, as part of the tax foreclosure program. The property was listed for sale in February of 2020 at \$40,000 as we have left the garage on the site. The garage turned out to be an impediment to the sale as the only offers were to use the garage and parcel for business operations. We therefore demolished the garage. This is one of two offers that we made to redevelop the property. The first offer was rejected for \$20,000. This proposal was originally for \$20,000 and rejected. This revised offer is the result of a counter-offer that removes the condition that the brick first floor requirement would be removed from the Purchase Agreement (there are not brick homes in this area of Revere) and an increase in the offer to \$25,000.

Mr. Rayes noted they waived the brick requirement on this parcel as the homes in this area are not brick.

**Moved by Council Member Caron, and supported by Council Member Frederick to approve the sale of the vacant lot at 21907 Revere (2018 Tax Foreclosure) in the amount of \$25,000.00, as recommended by the City Manager.**

Ayes: All – 6  
Absent: Rusie

**f. Request from Michigan Department of Transportation (MDOT) for approval of Contract 21-5053 for work on 12 Mile Road from Harper to Jefferson resolution and authorized signers**

**Background:** The recommendation was to authorize the execution of the Michigan Department of Transportation (MDOT) contract for the reconstruction of 12 Mile Road and authorize the City Manager and City Clerk to execute this agreement.

The City of St. Clair Shores secured funding as part of the 2021 Transportation Improvement Program (TIP) through Michigan Department of Transportation for the resurfacing of 12 Mile Road. The cost share for the project is 80% MDOT and 20% City of St. Clair Shores.

Mr. Caron asked if Consumers Energy would repair/replace the sidewalks on 12 Mile between Harper and Jefferson before the MDOT paving project begins. He also asked about the sidewalk replacement schedule.

**Moved by Council Member Frederick, and supported by Council Member Caron to authorize the execution of the Michigan Department of Transportation (MDOT) contract #21-5053 for the reconstruction of 12 Mile Road and authorize Matthew W. Coppler, City Manager and Mary A. Kotowski, City Clerk to execute this agreement, as recommended by the City Manager.**

Ayes: All – 6  
Absent: Rusie

**9. 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.**

**Moved by Council Member Caron supported by Council Member Frederick to approve the Consent Agenda items a – g as follows:**

**Item 9 (Cont'd):**

**a. Bills**

April 8, 2021

\$3,702,086.28

Resolved to approve the release of checks in the amount of \$3,702,086.28 for services rendered, of the report that is 21 pages in length, and of the grand total amount of \$3,702,086.28, \$3,802.20 went to other taxing authorities.

**b. Fees**

Resolved that the following Fees be approved as presented:

Ihrie O'Brien

\$15,905.60

**c. Progress Payments - None**

**d. Approval of Minutes**

Resolved that the following Minutes be approved as presented:

Minutes  
City Council

Meeting Date  
April 5, 2021

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

Resolved that the following minutes be received and filed:

Minutes

Animal Care & Welfare Committee  
Animal Care & Welfare Committee  
Employee Civil Service Commission  
Historical Commission  
Waterfront Environmental Committee  
Waterfront Environmental Committee  
Waterfront Environmental Committee  
Waterfront Environmental Committee  
Zoning Board of Appeals

Meeting Date

October 13, 2019  
January 13, 2020  
March 22, 2021  
March 3, 2020  
June 16, 2020  
August 18, 2020  
September 7, 2020  
October 20, 2020  
March 4, 2021

**f. Delivery of Fiscal Year 2021-22 Budget to Council**

Resolved to receive the Fiscal Year 2021-22 Budget

**g. Request to adopt an additional resolution regarding the transfer of the City owned tavern license to Detroit's Finest approving the "transfer classification from Tavern License to Class C License"**

Resolved to approve application from Detroit's Finest II, Inc. for Transfer Classification of Tavern License to Class C License to be located at 25801 Jefferson Ave, St. Clair Shores, Macomb County and it is the consensus of this body that it recommends this application be considered for approval by the Michigan Liquor Control Commission with new additional Bar Permit; new Sunday Sales Permit (am); new Sunday Sales Permit (pm); new Outdoor Service Area;

And

Be It Further Resolved that the purchase agreement for the business assets (tavern license) executed between the City of St. Clair Shores and Detroit's Finest II, Inc. be approved as recommended by the City Manager.

Ayes: All – 6

Absent: Rusie

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

- **Assess Stormwater Costs to City of Grosse Pointe Woods Park** – Mr. Ihrie will investigate this option.
- **Stormwater Utility Ordinance/City Newsletter** – Mr. Vitale would like to see a colored graphic provided to residents to help when we are educating them about this new ordinance.

**Item 10 (Cont'd):**

- **Hazelwood and Grant/Intersection Failing** – This repair was made in November 2009 with quickset concrete which we do not allow anymore.
- **Reported Leaky Gate Valve/Process to be Reviewed** – We will be meeting with SERESA in this regard. We encourage residents to use the Q-Alert system in non-emergency situations.
- **Social District Areas** – This information was provided to Council.
- **EGL Grant/Water Program** - We just received the grant document and will sign and submit it right away.

**11. COMMENTS BY INDIVIDUAL COUNCIL MEMBERS**

**Council Member Accica** asked what the blue paint on the sidewalks is for.

He noted that construction has started on the boat ramp at Blossom Heath so everyone will have to use the boat ramp at either 9 Mile or 11 Mile.

**Council Member Rubello** asked that the street failure on Erben between Harper & Little Mack be addressed.

He asked how a resident would report a water pressure issue.

Mr. Coppler said residents should use the Report a Concern Q-Alert system on the City's website.

Mr. Rubello said Lake Shore Public school is doing their Kindergarten roundup.

The Waterfront Environmental Committee Annual Meeting is scheduled for April 22, 2021 at the Blossom Heath Beach House.

He listed many of the events going on in the City.

Mayor Walby said we will be setting a public hearing for the Social District at the next Council meeting.

Mr. Rubello gave his condolences to the Ulrich family.

He noted Maureen Moore passed away in March. He gave his sympathy to her family.

**Council Member Caron** gave his condolences to the Moore family.

He would like administration to ask that GFL consider taking latex paint at the upcoming Hazardous Waste Day on May 8th.

St. Joan of Arc will not have a traditional festival. They will only be doing the raffle this year. They will also have food trucks available May 21<sup>st</sup>, 22<sup>nd</sup> and 23<sup>rd</sup> in their parking lot.

**Council Member Frederick** gave his condolences to Ulrich family and the Moore family.

He said that the hockey playscape has arrived, and they have started the installation at the Civic Arena.

He made several Library Announcements.

**Council Member Vitale** asked for an update on the permit for the gas station project at 10 Mile & Little Mack.

**12. CITY MANAGER'S REPORT** - None

**13. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT)**

Lolly Gerhardstein, St. Clair Shores resident, spoke about the services offered at the Library and the great job the staff does.

Jamie Victory, St. Clair Shores resident, asked if D.J.'s are allowed to play in Veterans Memorial Park at a private event.

Barbara Zinner, County Commissioner, commented on several areas of business that took place at tonight's meeting.

14. **MAYOR'S COMMENTS** - None

15. **REQUEST THAT THE CITY COUNCIL OF THE CITY OF ST. CLAIR SHORES SHALL MEET IN CLOSED SESSION AS PERMITTED BY STATE STATUTE MCLA 15.268, SECTION 8(c)**

**Moved by Council Member Caron, supported by Council Member Frederick to enter Closed Session as permitted by State Statute MCLA 15.268, Section 8 (c) at 9:17 p.m.**

Roll Call Vote

Ayes: Caron, Frederick, Accica, Rubello, Vitale, Walby

Absent: Rusie

**Moved by Council Member Frederick, supported by Council Member Caron to return to Open Session at 9:47 p.m.**

Ayes: All – 6

Absent: Rusie

16. **ADJOURNMENT**

**Moved by Council Member Caron, supported by Council Member Frederick to adjourn at 9:49 p.m.**

Ayes: All – 6

Absent: Rusie

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KIP C. WALBY, MAYOR

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MARY A. KOTOWSKI, CITY CLERK

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