

**MINUTES
ST. CLAIR SHORES CITY COUNCIL STUDY SESSION
DECEMBER 13, 2010**

City Council Study Session, held in the Council Chambers, located at 27600 Jefferson Circle Dr., St. Clair Shores, Michigan.

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

Absent & Excused: Council Member Rusie

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

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

Mayor Hison called the meeting to order at 7:00 p.m. Ms. Kotowski, City Clerk, called the roll with a quorum present. The Pledge of Allegiance was recited by those in attendance. Ms. Kotowski noted Ms. Rusie asked to be excused from this meeting.

Motion by McFadyen, seconded by Walby to excuse Council Member Rusie from tonight's meeting.

Ayes: All – 6

Absent: Rusie

Mayor Hison noted that item 4 has been removed and it will be rescheduled in 2011. He announced a snow event is in effect as of December 13, 8:00 a.m.

Mr. Hughes explained that when a snow event is called, property owners that have sidewalks are asked to remove snow and ice within 48 hours. After 48 hours, a contracted service provider will drive the City roads and notify the properties that have not complied. If the sidewalks are not cleared of snow/ice within 24 hours of the notice, the contractor will remove the snow/ice and bill the property owner for the service. A snow event is called when snow fall is greater than two inches.

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

Jim Goodfellow, St. Clair Shores, agenda item 3. Mr. Goodfellow talked about notifying neighbors when a fence is installed.

Ray DeBates, St. Clair Shores, agenda item 3. Mr. DeBates noted that the ordinance to be discussed should be a view ordinance included in the zoning code. The purpose of the ordinance is to not obstruct the view of the water, but the language doesn't mention anything about the view.

Mayor Hison responded that fences are allowed on lakefront property, as long as they are see-through; wrought iron or cyclone fences.

Joe Claycomb, St. Clair Shores, agenda item 3. Mr. Claycomb was involved in the last review of the fence ordinance for lakefront property in 2006 and suggested keeping the constraints from blocking the water. Property owners bought their homes for the view.

3. REVIEW OF THE EXISTING ORDINANCE RELATED TO PRIVACY FENCES FOR LAKEFRONT PROPERTY

Mayor Hison noted that Mr. Rubino and Ms. Rusie requested reviewing this ordinance.

Mr. Rubino stated that a lot of concerns have been raised from residents that are unable to plant greenery to buffer the noise and provide privacy on Jefferson Avenue. He argued that others have planted shrubbery on the rear end of the lot or on the sides which blocks others' view of the lake. Mr. Rubino added that the property owner that has been denied was planting the shrubs in front of the house, not blocking any view of the lake. He argued that individualism is the foundation of this country and the property owner should have the right to do what they want for their happiness on their property. Mr. Rubino stated that he sides with the rights of the individual and homeowners should not be penalized for putting up shrubbery in front of their house.

Mayor Hison clarified that greenery planted so close together that it creates a fence is not allowed. The properties along Jefferson that have trees, shrubs or fences have been there prior to the revised ordinance of 2006. Those

3. REVIEW OF THE EXISTING ORDINANCE RELATED TO PRIVACY FENCES FOR LAKEFRONT PROPERTY cont'd.

properties are considered grandfathered. However, if 40% or more of the subject dies/needs replacement, they are not to be replaced. All greenery, prior to 2006 or currently shall not exceed six feet in height.

Mr. Rubino stated he would like the ordinance revised for the homes on the east side of Jefferson Avenue between the front of the house and the street. He added that the lakefront homes on Jefferson are very different than the homes on the side streets and they need to buffer the noise and their view of Jefferson.

Mr. Rayes stated that the ordinance does not allow planting shrubbery to form a fence. In addition, no fences are allowed in the front set back of the homes (beyond the front of the house) for all zoning districts within the City.

Mayor Hison clarified that homeowners are allowed to have landscaping on their properties as long as it does not create a continuous wall.

Mr. Ihrle noted that the ordinance is not intended to prohibit property owners from installing landscaping, trees, or shrubs; it is intended to prevent owners from building an enclosure, barrier or boundary.

Mr. Rayes stated that some properties on Jefferson have reversed their plot and the front of the house is facing the water. The definition in the ordinance, the parcel's front of the house is the side that abuts the roadway, regardless of what's there.

Mr. Rubello talked about existing arborvitaes that give residents privacy. Mr. Rayes replied that if they were planted prior to 2006, they are grandfathered. If 40% or more has to be replaced, the property owner has to comply with the new ordinance and remove the shrubs.

The City has two avenues for a petitioner who is not in compliance with the ordinance: Fence Arbitration Board and Board of Fence Appeals. The Board of Fence Appeals was introduced in 2008 to give homeowners another chance to appeal. If both boards deny their variance request, the owner has the option of going to Circuit Court.

Mr. Frederick was a member of the Sub-Committee of the Fence Arbitration prior to 2008 and noted that when decisions were made, safety was the main concern.

Mayor Hison noted that this Study Session was not a public hearing, but seeing no objections he opened the meeting for public comments.

Ray DeBates, St. Clair Shores resident, questioned how obstructing the view and having no privacy benefits the health, safety and welfare of the general public. Mr. DeBates suggested repealing this ordinance and creating a new ordinance under the zoning code to be able to grant variances and waivers.

Larry Beaver, St. Clair Shores resident, stated that St. Clair Shores is a lakefront community and the City needs to be cognizant of the view. Homeowners should be aware of the conditions when purchasing a lakefront property. He added that exceptions become the rule.

Sandra Skinner, St. Clair Shores resident, noted that if an exception is made for Jefferson Avenue, then why not for any other busy street? Ms. Skinner echoed the safety issues with fences. She doesn't agree with writing an ordinance just for one street.

Patricia Parenteau, St. Clair Shore resident, argued that if one person is allowed, then everyone will do it along Jefferson Avenue.

Larry Zimmerman, St. Clair Shores resident, noted that the height is the issue on lakefront property. Some of the landscaping exceeds six feet and it needs to be enforced.

Lillian Claycomb, St. Clair Shores resident, stated the residents and the City worked long and hard to implement the revised ordinance in 2006 to consider the view and value in the City. She added that we are trying to sell the community and share the beautiful waterfront.

Cindy Lucido, St. Clair Shores resident, used to live on the west side of Jefferson and was denied erecting shrubs along the front of the property due to safety concerns. Ms. Lucido doesn't agree with privacy fences on lakefront property and stated that Jefferson should be treated as any other main street.

Mayor Hison ended the public comments and thanked the residents for their input.

3. REVIEW OF THE EXISTING ORDINANCE RELATED TO PRIVACY FENCES FOR LAKEFRONT PROPERTY cont'd.

Mayor Hison asked that if Council wishes to change the ordinance, it needs to be brought back at a regular Council meeting for a vote.

Mr. Rubino talked about forcing someone to give up their needs for the benefit of the collective group and noted that exceptions have been made in regards to the white fence blocking an entire canal.

Mayor Hison requested Council members to further comment or submit questions by email to Mr. Hughes if it was their desire to propose changes.

4. ~~REVIEW OF THE FINDINGS OF THE SIGN ORDINANCE SUB COMMITTEE (to be rescheduled in 2011)~~

5. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT)

Ray Debates, St. Clair Shores resident, noted that views are not guaranteed because of ongoing construction and proposed enclosing the fence ordinance in the zoning code.

6. REQUEST TO ENTER CLOSED SESSION AS PERMITTED BY STATE STATUTE MCLA 15.268, SECTION 8(C) AND 8(E) L. BEAVER AND K. BEAVER V. ST. CLAIR SHORES, ET AL.

Mr. Ihrie asked that closed session be considered for litigation in addition to Section 8(c), so he can give Mayor and Council an update.

Motion by Walby, seconded by Frederick to enter Closed Session as permitted by State Statute MCLA 15.268 Sections 8(c) and 8(e) L. Beaver and K. Beaver v. St. Clair Shores, et al. at 8:20 p.m.

A roll call vote was taken.

Ayes: All – 5

Absent: Rubino, Rusie

Motion by Frederick, seconded by Rubino to return to Open Session at 9:27 p.m.

Ayes: All – 6

Absent: Rusie

7. ADJOURNMENT

Motion by Rubino, seconded by Walby to adjourn the meeting at 9:27 p.m.

Ayes: All – 6

Absent: Rusie

ROBERT A HISON, MAYOR

MARY A. KOTOWSKI, CITY CLERK