Fraser City Council - Regular Meeting
Thursday – June 14, 2012 - 7:00 P.M.
Municipal Building

A Regular Meeting of the Fraser City Council was conducted on the above date at the City Municipal Building, located at 33000 Garfield Road, Fraser, County of Macomb, Michigan.

Present:	Mayor Hagerty and Council Members Accavitti, Blanke, Carnagie, Cilluffo, Jennings and Morelli
Absent:	None
Also Present:	Richard E. Haberman, City Manager Kathy Kacanowski, City Clerk Jack Dolan, City Attorney

1. **Call Meeting to Order** - Mayor Hagerty called the regular meeting to order at 7:15 p.m. Mayor noted Member Morelli will be late.

2. **Pledge of Allegiance**

3. **Approval of Agenda**

Member Jennings moved, seconded by Member Cilluffo, to ADD A CLOSED SESSION PER ITEM (h) OF THE OPEN MEETINGS ACT TO CONSIDER MATERIAL EXEMPT FROM DISCUSSION OR DISCLOSURE BY STATE OR FEDERAL STATUTE.

Member Morelli arrived at 7:28 p.m. Mayor and Council members each spoke explaining why they would, or would not, prefer to go into closed session. Mayor Hagerty allowed the following residents to speak regarding this item:

Deborah Wright, 15535 Kingston
Jim Cearlock, 16230 Pine Ridge
Vince Calabrese, 17926 Breezeway
Angela Bennett, 34275 Utica
Gil Harris, 15863 Kingston
Joe DiStefano, 32102 DiStefano Ct
Elaine Gorski, 34103 W. Gardenia
Lt. Dan Kolke, Public Safety

A roll call vote was taken to add this item to the agenda:

Accavitti - yes	Hagerty - no
Blanke - yes	Jennings - yes
Carnagie - yes	Morelli - yes
Cilluffo - yes	

The motion carried 6-0 .

Member Accavitti moved, seconded by Member Morelli, to APPROVE THE AGENDA AS AMENDED.

The motion carried unanimously.

4. **Citizen Participation on Agenda Items**

Juanita Parker, 16442 Clarkson
Jodi Horan, Plaza East

5. **Presentations**

a) Fraser First Booster Club President, Vania Apps, acknowledged Mary Apps and Susie Hap, owners of Fraser Flowers & Gifts, as business supporters of the month.

b) Mayor Hagerty and Jan Wilson presented a Certificate of Recognition to Monique Stanton honoring CARE of Southeastern Michigan for their commitment to serving this community for the past thirty five years.

6. **Public Hearings** - None

7. **Consent Agenda**

Mayor and Council spoke regarding ADT, Abraham Gaffney, Rizzo and court rental billings. Finance Director, Tim McCulloch provided explanations. Manager Haberman advised the minutes from the May 10 regular council meeting and May 16 special council meeting were amended to reflect the correct open meetings alphabetical reference.

Member Jennings moved, seconded by Member Morelli, to APPROVE THE CONSENT AGENDA ITEMS AS AMENDED.

a. Approval of Minutes of the May 10, 2012 Regular Council meeting.
b. Approval of Minutes of the May 16, 2012 Special Council meeting.
c. Approval of Bills for the Month of May 2012 in the amount of $1,048,501.14
d. Receive and file the Minutes of the April 9, 2012 Library Board meeting.
e. Receive and file the Minutes of the April 26, 2012 Planning Commission meeting.
f. Receive and file the Minutes of the May 3, 2012 Zoning Board of Appeals meeting.

The motion carried unanimously.

8. **Requests For Council Action**

a. Request Council appoint a delegate and alternate to represent the City of Fraser at the SEMCOG general assembly.

Member Morelli moved, seconded by Member Jennings, to APPOINT PAUL CILLUFFO AS A DELEGATE TO REPRESENT THE CITY OF FRASER AT THE SEMCOG GENERAL ASSEMBLY.

The motion carried unanimously.

Member Accavitti recommended Member Morelli as an alternate; however, he declined and suggested Member Blanke.

Member Accavitti moved, seconded by Mayor Hagerty, to APPOINT KATHY BLANKE AS AN ALTERNATE TO REPRESENT THE CITY OF FRASER AT THE SEMCOG GENERAL ASSEMBLY.

The motion carried unanimously.

b. Request Council approve the budget adjustments as presented.

Mayor questioned reconciliation adjustments and the consensus of Council is to make adjustments as they occur, instead of twice annually.

Member Jennings moved, seconded by Member Blanke, TO APPROVE THE BUDGET ADJUSTMENTS AS PRESENTED.

The motion carried unanimously.

c. Request Council authorize the Administration sign a contract with CivicPlus for the development of a new website after approval of final document by City Attorney.

Manager Haberman advised the cost is $19,000 and Council had approved $25,000. He explained the capabilities and noted streaming video can be added to current website until new website is complete. Statistics will be available to monitor usage to ensure the site is being utilized.

Member Jennings moved, seconded by Member Morelli, TO AUTHORIZE THE ADMINISTRATION TO SIGN A CONTRACT WITH CIVICPLUS FOR THE DEVELOPMENT OF A NEW WEBSITE AFTER APPROVAL OF FINAL DOCUMENT BY CITY ATTORNEY.

The motion carried unanimously.

d. Request Council approve the abandonment of all roads, streets, and public drives associated with Moehr Estates, Stoney Brook, Fraser Villa, Villas of Pine Ridge, Mulvey North, Garfield Green, Mulvey Gardens and Hamilton Woods, which were shown on the master deed or any amendments thereto.

Attorney Dolan explained research indicates there was discussion of reimbursement to the City by condo associations for maintenance; however, this does not appear to have happened and some deeds and council action are missing. He stated the appropriate action is to vacate these roads and place them back with the condo associations. Council will then be able to decide what action they want to take. He noted there are 28 condo associations in the city and this would affect 8 condos and 1 co-op.

At this time, 9:25pm, Mayor Hagerty requested a break while the video tape was being changed. The meeting resumed at 9:30pm.

Attorney Dolan advised he was approached by two attorneys during the break who provided information from the 1980's and suggests they meet with the City Manager and himself prior to the next meeting.

The following citizens spoke regarding this item:

Wayne Wagner, 23201 Jefferson, St. Clair Shores attorney
Judy Shlopman, Hamilton Woods
Al Bileti, 16796 S. Gardenia
Jim Cearlock, 16230 Pine Ridge
Robert Tate, 16515 Wood Lane
Anna Cameron, 34273 Garfield Circle
Elaine Gorski, 34103 W. Gardenia
Nancy Ehrke, 16931 N. Gardenia
Joe Yoho, 33800 Pine Ridge
Joe DiStefano, 32102 Distefano Ct.

Member Carnagie moved, seconded by Member Jennings, to POSTPONE THIS ITEM FOR 90 DAYS TO GATHER ADDITIONAL INFORMATION. IN ADDITION, THE OWNERS WILL INDIVIDUALLY BE NOTIFIED OF THE MEETING WHEN THIS ITEM WILL BE PRESENTED.

The motion carried unanimously.

e. Request Council authorizes the Administration by Resolution to seek funding under Act 99 of 1933 for the lease-purchase of a new backhoe for the sum not to exceed $85,000.

Gil Harris, 15863 Kingston, expressed his opinion on this item.

Member Blanke moved, seconded by Member Carnagie, to AUTHORIZE THE ADMINISTRATION BY RESOLUTION TO SEEK FUNDING UNDER ACT 99 OF 1933 FOR THE LEASE-PURCHASE OF A NEW BACKHOE FOR THE SUM NOT TO EXCEED $85,000

CITY OF FRASER
COUNTY OF MACOMB, STATE OF MICHIGAN

RESOLUTION AUTHORIZING INSTALLMENT PURCHASE AGREEMENT

Minutes of a regular meeting of the City Council of the City of Fraser, County of Macomb, State of Michigan, held on the 14th day of June, 2012, at 7:00 o'clock p.m., prevailing Eastern Time.

PRESENT: Mayor Hagerty and Members Accavitti, Blanke, Carnagie, Cilluffo, Jennings and Morelli
ABSENT: None

The following preamble and resolution were offered by Member Blanke and supported by Member Carnagie:

WHEREAS, the City Council of the City of Fraser, County of Macomb, State of Michigan (the "City") determines it to be necessary for the public health, safety and welfare of the City and its residents to acquire a John Deere 310K Backhoe (the "Equipment") in the amount of not to exceed Eighty-Five Thousand Dollars ($85,000.00); and

WHEREAS, under the provisions of Act No. 99, Public Acts of Michigan, 1933, as amended ("Act 99"), the City is authorized to enter into any contracts or agreements for the purchase of the Equipment to be paid for in installments over a period of not to exceed the useful life of the Equipment acquired as determined by resolution of the City; and

WHEREAS, the outstanding balance of all purchases by the City under Act 99, exclusive of interest, shall not exceed one and one quarter percent (1-1/4%) of the taxable value of the real and personal property in the City at the date of such contract or agreement; and

WHEREAS, purchase of the Equipment pursuant to an installment purchase agreement will not result in the outstanding balance of all such purchases in excess of the limitation contained within Act 99 as set forth above; and

WHEREAS, it is necessary for the City to arrange for the financing of the Equipment; and

WHEREAS, the City Council wishes to delegate to the City Manager and the Finance Director/Treasurer to arrange for the financing of the Equipment with PNC Equipment Finance, LLC pursuant to an installment purchase agreement within the parameters set forth herein.

NOW THEREFORE, BE IT RESOLVED THAT;

1. The City Manager and the Finance Director/Treasurer are each hereby authorized to arrange for the financing of the Equipment with a bank or financial institution pursuant to an installment purchase agreement. Interest on the agreement shall not exceed 4.50% per annum, the aggregate principal amount of the agreement shall not exceed Eight-Five Thousand Dollars ($85,000.00). Interest on the agreement shall be payable on April 1 and October 1 of each year, commencing no later than April 1, 2013, and principal shall be payable annually or semiannually, commencing no earlier than October 1, 2012 with

the last principal maturity no later than October 1, 2022. The agreement may be made payable prior to maturity as determined by either the City Manager or the Finance Director/Treasurer at the time of execution of the agreement. The Mayor, City Clerk, City Manager, Finance Director/Treasurer or their designee are each hereby authorized to execute the agreement, when in final form, and deliver it to the purchaser.

2. The useful life of the Equipment is hereby determined to be not less than ten (10) years.

3. The Mayor, City Clerk, City Manager, Finance Director/Treasurer or their designee are each authorized to execute such additional documentation as shall be necessary to effectuate the closing contemplated by the agreement.

4. The City hereby agrees to include in its budget for each year, commencing with the present fiscal year, a sum which will be sufficient to pay the principal of and the interest coming due under the agreement during such fiscal year.

5. The City covenants that, to the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest component of the payments due under the agreement from adjusted gross income for general federal income tax purposes under the Internal Revenue Code of 1986, as amended (the “Code”), including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable.

6. The acquisition of the Equipment and the approval of the agreement hereby are found and declared to be for a valid public purpose and in the best interest of the health and welfare of the residents of the City.

7. The City hereby designates the agreement as a “qualified tax exempt obligation” for purposes of deduction of interest expense by financial institutions pursuant to the Code.

8. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded to the extent of such conflict.

The motion carried unanimously.

f. Request Council by Resolution authorizes the Administration to transfer the sum of $500,000 from the major road fund to the local road fund to pay for needed repairs on our local streets.

Member Morelli moved, seconded by Member Jennings, to AUTHORIZE THE ADMINISTRATION BY RESOLUTION TO TRANSFER THE SUM OF $500,000 FROM THE MAJOR ROAD FUND TO THE LOCAL ROAD FUND TO PAY FOR NEEDED REPAIRS ON OUR LOCAL STREETS.

RESOLUTION

At the Regular Meeting of the Fraser City Council held on Thursday, June 14, 2012, in the Council Chambers of the City Municipal Building located at 33000 Garfield Road, City of Fraser, County of Macomb, State of Michigan, the following motion was offered by Council Member Morelli, seconded by Council Member Jennings, and adopted by the Council with a 7-0 vote.

WHEREAS, the City of Fraser currently maintains our major streets in an adequate manner, those being:

Street	Starting	Ending
French Creek	Hayes	Utica

Mulvey	Utica	Garfield
Klein	Utica	15 Mile
Commerce	15 Mile	Malyn
Malyn	Commerce	Kelly
Vermander	Bennett	Doreka
Bennett	15 Mile	Vermander
Doreka	Malyn	Vermander
Fruehauf	Masonic	14 Mile
Masonic	Hayes	Kelly
Fraser	13 Mile	Utica
Caroline	Masonic	Admiral
Admiral	Caroline	Utica
College	Caroline	Utica
Eveningside	13 Mile	Masonic
Beacon Lane	Masonic	14 Mile

WHEREAS, the City of Fraser is following an asset management process for its major and local street systems and wishes to fund the construction and engineering costs budgeted in this year for certain improvements to local streets, those projects being:

Klein Court, Klein Circle, South Wind Drive, Slumber Lane, Breezeway to Masonic, Fall, 13 Mile Road to South Wind, Eveningside to Breezeway

NOW THEREFORE, the City Council of the City of Fraser approves the transfer of $500,000 from the Motor Vehicle Highway Major fund to the Motor Vehicle Highway Local Fund, said monies to be utilized for the stated improvements.

The motion carried unanimously.

9. <u>Report of City Administration/Pending Items</u>

Manager Haberman advised Council that contract negotiations are ongoing but should be brought to Council in July. Mayor Hagerty requested an update on the bank reconciliation and Tim McCulloch advised they are expecting the final report within the next two weeks.

10. <u>Report of Mayor and City Council/New Business</u>

Mayor and Council discussed various topics.

11. <u>Citizen Participation</u>

The following residents spoke on various topics:
Al Bileti, 16796 S. Gardenia
Elaine Gorski, 34103 W. Gardenia
Gil Harris, 15863 Kingston
Marcia Woodward, 17928 Winsome
Joe DiStefano, 32102 DiStefano Ct.

12a. <u>Request Council Enter Into Closed Session</u> Pursuant to 15.268 (h) of the Open Meetings Act, Act 267 of 1976 as Amended, to Consider Material Exempt From Discussion or Disclosure by State or Federal Statue.

A roll call vote was taken to enter into closed session at 11:21 p.m.:

Accavitti - yes	Hagerty - yes
Blanke - yes	Jennings - yes
Carnagie - yes	Morelli - yes
Cilluffo - yes	

The motion carried unanimously.

At this time, 1:07 a.m. the meeting reconvened.

Member Jennings moved, seconded by Member Morelli, to RETAIN THE LAW FIRM OF FOLEY & MANSFIELD, PLLP, TO INITIATE A CIVIL ACTION PURSUANT TO A CONTINGENT FEE AGREEMENT NOT EXCEEDING 1/3 NET RECOVERY OF THE FEE AGAINST ALMEDA UNIVERSITY AND ANY OTHER RELATED ENTITIES TO RECOVER DAMAGES AND ATTORNEY FEES AS PROVIDED UNDER THE AUTHENTIC CREDENTIALS AND EDUCATION ACT AND ANY OTHER AVAILABLE REMEDY. IN ADDITION, THE CITY WILL STOP PAYMENT OF THE EDUCATIONAL ALLOWANCE ON BEHALF OF PUBLIC SAFETY OFFICERS WHO HAD RECEIVED DEGREES FROM ALMEDA UNIVERSITY, MODIFY CONTRACTS AND REQUEST OFFICERS OR UNIONS REPAY THE EDUCATIONAL ALLOWANCE MONEY OVER TIME AND, IF REFUSED, AUTHORIZE LITIGATION AGAINST THEM TO RECOVER SUCH FUNDS.

A roll call vote was taken:

Accavitti - yes	Hagerty - no
Blanke - no	Jennings - yes
Carnagie - yes	Morelli - yes
Cilluffo - no	

The motion carried 4-3.

12b. <u>Request Council Enter Into Closed Session</u> to discuss June 8, 2012 written opinion of legal counsel regarding closed meeting confidentiality.

Member Hagerty moved, seconded by Member Morelli, to POSTPONE THE SECOND CLOSED MEETING SESSION UNTIL THE NEXT MEETING.

The motion carried unanimously.

13. <u>Adjournment</u>

Member Cilluffo moved, seconded by Member Carnagie, to ADJOURN THE REGULAR COUNCIL MEETING OF THURSDAY, JUNE 14, 2012 AT 1:09 AM.

The motion carried unanimously.

Respectfully submitted,

____
Kathy Kacanowski, City Clerk

____
Doug Hagerty, Mayor

/kk