

Fraser City Council - Regular Meeting
Thursday – January 12, 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 7:00 p.m.

2. **Pledge of Allegiance**

The Pledge of Allegiance was led by members of the Edison Elementary Tiger Cub Scouts

3. **Approval of Agenda**

Member Jennings moved, seconded by Member Blanke, to TABLE THE SECOND PART OF ITEM 8d RELATIVE TO THE USE OF ERIP'S AS A MEANS FOR REDUCING THE NUMBER OF FULL TIME EMPLOYEES IN THE UPCOMING FY 2012/2013 BUDGET.

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Blanke, to TABLE ITEM 8g RELATIVE TO ESTABLISHING A TECHNOLOGY COMMISSION.

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Cilluffo, to TABLE ITEM 8h RELATIVE TO ELIMINATING THE 5 MINUTE RULE GOVERNING CITIZEN PARTICIPATION.

The motion carried with three (3) no votes by
Mayor Hagerty and Members Accavitti and Carnagie

Member Jennings moved, seconded by Member Blanke, to MOVE ITEM 5g ADMINISTRATION REPORT ON ALS MILLAGE ADJUSTMENT TO ITEM 9 REPORT OF CITY ADMINISTRATION

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Cilluffo, to MOVE ITEM 5h ADMINISTRATION REPORT ON CITY HALL BOND MILLAGE ADJUSTMENT TO ITEM 9 REPORT OF CITY ADMINISTRATION

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Cilluffo, to MOVE ITEM 5i ADMINISTRATION REPORT ON MUNETRIX FISCAL DATABASE TO ITEM 9 REPORT OF CITY ADMINISTRATION

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

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Member Jennings moved, seconded by Member Cilluffo, to INCLUDE ITEMS 5d ADMINISTRATION MID-YEAR BUDGET REVIEW, 5e ADMINISTRATION FUND BALANCE ANALYSIS AND 5f ADMINISTRATION ANALYSIS OF WATER AND SEWER FUND AND GRAVITY SEWER PROJECT WITH ITEM 5c PRESENTATION OF FY 2010-2011 AUDIT.

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Blanke, to MOVE ITEM 5j ATTORNEY REVIEW AND LEGAL OPINION REGARDING ABILITY OF MAYOR OR BOARD CHAIR TO MAKE MOTIONS TO ITEM 9 REPORT OF CITY ADMINISTRATION

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Morelli, to MOVE ITEM 5k CITY ATTORNEY/CITY MANAGER REVIEW OF SECTION 7.04 OF COUNCIL RULES REGARDING REQUESTS MADE BY COUNCIL AND OPINION REGARDING MAYOR MAKING MOTION AND VOTING ON ITEMS TO NEW ITEM 8i.

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Blanke, to ADD ITEM 8j TO REQUEST COUNCIL REVIEW SECTION 4.01 OF COUNCIL RULES AND PROCEDURES RELATIVE TO WHO PREPARES THE COUNCIL AGENDA.

The motion carried with two (2) no votes
by Mayor Hagerty and Member Accavitti

Member Jennings moved, seconded by Member Blanke, to ADD ITEM 8k TO REQUEST COUNCIL APPOINT WILLIAM MORELLI AS ELECTION COMMISSION OFFICER.

The motion carried unanimously.

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

The motion carried unanimously.

4. Citizen Participation on Agenda Items - none

5. Presentations

a) Presentation was made by Goodfellows members Robert Brannon, Michelle Casey and Jan Wilson. Goodfellows member Carol also spoke regarding her experience with this group

b) Officer Jason Poole offered a presentation and thank you from Fraser Public Safety for the supporters of the Holiday Baskets and other holiday programs.

c) Aaron Stevens from Abraham Gaffney provided a presentation on the 2010-2011 audit. Concern regarding the deficit in the water and sewer fund was noted along with timeliness of bank reconciliations. A specialist will be brought in to review the City's records and Council will be notified of the findings. Member Jennings requested that in the future, charts be provided to Council prior to the presentation.

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Member Carnegie requested Council receive copies of action plans once the Finance Department prepares segregation of duties and internal control of attendance.

Member Cilluffo noted the Finance Director inherited the reconciliation problem as it went back to 2006.

Debbie Wright, 15535 Kingston, spoke regarding this topic.

At this time, 8:35pm, Mayor Hagerty requested a break while the video tape is being changed. The meeting resumed at 8:45pm.

- d) Administration Mid-Year budget Review
- e) Administration Fund Balance Analysis
- f) Administration Analysis of Water and Sewer Fund and Gravity Sewer project

City Manager Haberman provided a review of the mid-year budget, fund balance analysis and water/sewer fund and gravity sewer project. He noted that if Council approves a resolution, a referendum to have some fees currently on the water bill placed on tax bills could be placed on the August ballot for voters' consideration.

The following citizens spoke regarding these topics:

Mrs. Bennett, 34275 Utica
Al Bileti, 16796 S. Gardenia
Dave Stouder, Linden

- g) Administration Report on ALS Millage Adjustment-moved to Item 9
- h) Administration Report on City Hall Bond Millage Adjustment-moved to Item 9
- i) Administration Report on Munetrix Fiscal Database-moved to Item 9
- j) City Attorney review and legal opinion regarding ability of Mayor or Board Chair to make motions-moved to Item 9
- k) City Attorney/City Manager review of Section 7.04 of Council rules regarding Requests Made by Council and opinion regarding Mayor making motion and voting on items-moved to Item 9

6. Public Hearings - none

7. Consent Agenda

Member Accavitti moved, seconded by Member Blanke, to APPROVE THE CONSENT AGENDA ITEMS AS PRESENTED.

- a. Approval of Minutes of the December 8, 2011 Regular Council meeting.
- b. Approval of Bills for the Month of December 2011 in the amount of \$1,116,635.31.
- c. Receive and file the Minutes of the November 16, 2011 Planning Commission meeting.
- d. Set Public Hearing on IFT request of Specialty Steel Treating for February 9, 2012 at 7:00 p.m.
- e. Reappoint Dee Laramie and Nancy Ehrke to the Historical Commission terms to end June 30, 2015.

The motion carried unanimously.

8. Requests For Council Action

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- a. Request Council approves the extension of the Medical Marijuana Moratorium for one year.**

Member Morelli moved, seconded by Member Carnagie, TO APPROVE THE EXTENSION OF THE MEDICAL MARIJUANA MORATORIUM TO JANUARY 10, 2013.

The motion carried unanimously.

- b. Request Council approve the purchase of 37 Point Blank Vision Ballistic vests with 2 carriers and 34 Special Threat Plates from C.M.P. Distributors at a total cost of \$26,987.50 with funds to come from the Public Safety Drug Forfeiture Account.**

The following residents spoke regarding this item:

Jodi Horan, Plaza East

Joe DiStefano, 32102 DiStefano Ct.

Member Blanke moved, seconded by Member Cilluffo, TO APPROVE THE PURCHASE OF 37 BALLISTIC VESTS, 2 CARRIERS AND 34 SPECIAL THREAT PLATES FOR A COST OF \$26,987.50 WITH FUNDS TO COME FROM THE PUBLIC SAFETY DRUG FORFEITURE ACCOUNT.

The motion carried unanimously.

- c. Request Council approve the removal of Peoples State Bank from the list of qualified institutions for City deposits and replace with Talmer Bank and Trust.**

Mayor Hagerty moved, seconded by Member Blanke, TO APPROVE THE REMOVAL OF PEOPLES STATE BANK FROM THE LIST OF QUALIFIED INSTITUTIONS FOR CITY DEPOSITS AND REPLACE WITH TALMER BANK AND TRUST.

The motion carried unanimously.

- d. Request Council approve a Resolution ratifying the Early Retirement Incentive Plan for John Van Fleteren and Pamela Lavers and state policy regarding continued use of ERIP's in the future.**

Member Blanke moved, seconded by Member Jennings, TO APPROVE THE RESOLUTION RATIFYING THE EARLY RETIREMENT INCENTIVE PLAN FOR JOHN VAN FLETEREN AND PAMELA LAVERS.

The motion carried unanimously.

The following preamble and resolution were offered by Councilperson Blanke and supported by Councilperson Jennings.

WHEREAS, the City of Fraser has heretofore authorized and executed early retirement incentive plans for previous employees, John Van Fleteren and Pamela Lavers;

WHEREAS, John Van Fleteren and Pamela Lavers were each under the age of 50 at the time they accepted the early retirement incentive plan;

WHEREAS, the retirement plan for the City of Fraser administered by the Pension Board for the City of Fraser does not provide for a retirement before the age of 50 years;

WHEREAS, the Council is desirous of clarifying its intent that the early retirement incentive plan was to allow each individual to retire immediately regardless of their age; and

WHEREAS, the Council does not intend that the early retirement incentive plans referenced herein set a precedent nor do they reflect a future intent to authorize additional early retirement incentive plans.

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NOW, THEREFORE, IT IS RESOLVED, as follows:

1. The early retirement incentive plans heretofore approved and executed on behalf of John Van Fleteren and Pamela Lavers are hereby ratified by the City Council.
2. The City through the Council is not providing that early retirement incentive plans or other agreements will be offered in the future.
3. The City Council by and through this Resolution is expressing that the early retirement incentive plans referenced herein shall not serve as precedence for approval of any future early retirement incentive plan, or any other agreement relating to employment.
4. Any and all resolutions and conflict are repealed to the extent necessary to give full force and effect to the foregoing provisions.
5. This Resolution is deemed severable should any provision, clause, word or sentence be deemed unenforceable the remainder shall remain in full force and affect.

RESOLUTION DECLARED ADOPTED.

Second portion relative to policy regarding continued use of Early Retirement Incentive plans was TABLED.

- e. Request Council approve the first reading of an Ordinance regulating and licensing pawnbrokers, second hand dealers and junk dealers adding Article 18.5 of the Code of Ordinances and providing for repealer, severability, penalties and effective date.**

Public Safety Director, George Rouhib, provided information regarding this item and a website Leadsonline.com

The following citizens voiced their concerns regarding this topic
Donna Middleton, 33215 Groesbeck, Middleton Auto Parts
James Gordon Middleton, Middleton Auto Parts
Linda Bittner, 34346 Utica, Clothing Exchange
James Foster, 32535 Groesbeck, Fosters Towing
Mrs. Bennett, 34275 Utica
Michael Torrice, 32059 Utica

Mayor Hagerty moved, seconded by Member Blanke, TO MOVE THE ORDINANCE REGULATING AND LICENSING PAWNBROKERS, SECOND HAND DEALERS AND JUNK DEALERS ADDING ARTICLE 18.5 OF THE CODE OF ORDINANCES AND PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE AS AMENDED TO A SECOND AND FINAL READING AT THE MEETING OF FEBRUARY 9, 2012.

The motion carried unanimously.

At this time, 11:24pm, Mayor Hagerty requested a break while the video tape is being changed. The meeting resumed at 11:31pm.

- f. Request Council approve the first reading of an Ordinance regulating and licensing precious metal and gem dealers adding Chapter 20.5 of the Code of Ordinances and providing for repealer, severability, penalties and effective date.**

Member Blanke moved, seconded by Member Carnagie, TO MOVE THE ORDINANCE REGULATING AND LICENSING PRECIOUS METAL AND GEM DEALERS ADDING CHAPTER 20.5 OF THE CODE OF ORDINANCES AND PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE AS AMENDED TO A SECOND AND FINAL READING AT THE MEETING OF FEBRUARY 9, 2012.

The motion carried unanimously.

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- g. Request Council establish a new Commission entitled Technology Commission consisting of one Chairperson and four members with Rules and Procedures to be developed and presented to the Council at a later date.**

This item was TABLED.

- h. Request Council eliminates the 5 minute rule governing the time limit for any and all Citizen Participation.**

This item was TABLED.

- i. Request Council discuss Section 7.04 of Council Rules regarding Requests Made by Council and attorney opinion regarding Mayor making motion and voting on items.**

Discussion ensued relative to Section 7.04 and the inadvertent removal of City Manager in the language when the item was amended in September 2002.

Member Jennings moved, seconded by Member Morelli, TO AMEND SECTION 7.04 OF THE CITY COUNCIL RULES AND PROCEDURES TO READ:
IF A REQUEST TO THE CITY ATTORNEY, CITY MANAGER OR A DEPARTMENT HEAD WOULD INVOLVE ANY SUBSTANTIAL COSTS TO THE CITY, SUCH REQUESTS SHALL FIRST BE SUBMITTED TO THE CITY MANAGER WHO WILL DECIDE IF THE REQUEST IS WARRANTED. IF THE CITY MANAGER FINDS THAT THE REQUEST WOULD INVOLVE ANY SUBSTANTIAL COSTS TO THE CITY, SUCH REQUEST SHALL BE SUBMITTED TO COUNCIL FOR DISCUSSION AND VOTE.

The motion carried unanimously.

- j. Request Council review Section 4.01 of Council Rules and Procedures relative to who prepares the council agenda.**

Discussion ensued relative to the preparation and distribution of the council agenda. It was noted the distribution was modified in 2009 changing the day agenda packets are to be sent to Council to the preceding Thursday and adding that it will be posted on cable and the website the preceding Friday. It was requested that the agenda begin running on cable at 6:00pm on Friday. Member Jennings requested that Council be allowed to change the agenda as noted in section 4.02. Discussion continued regarding the language in section 4.01 and removing “with the approval of the mayor”.

The following residents spoke regarding this topic:

Kevin Goebel, 33741 Nokomis

Debbie Wright, 15535 Kingston

Joe DiStefano, 32102 DiStefano Ct.

Dave Stouder, Linden

Member Morelli noted the format of the agenda has not been followed as listed in section 4.04.

Member Jennings moved, seconded by Member Blanke, TO AMEND SECTION 4.01 OF COUNCIL RULES AND PROCEDURES TO READ:
THE CITY MANAGER, OR HIS/HER DESIGNATE, SHALL PREPARE AN AGENDA OF BUSINESS TO BE CONSIDERED AT EACH REGULAR COUNCIL MEETING. ITEMS OF BUSINESS GENERALLY MUST BE SUBMITTED EIGHT (8) DAYS PRIOR TO THE REGULAR MEETING HELD THE SECOND THURSDAY OF THE MONTH, SUBJECT TO THE DISCRETION OF THE CITY MANAGER AND MAYOR. THREE MEMBERS OF COUNCIL CAN PETITION THE CITY MANAGER TO ADD TO THE AGENDA ON THE FRIDAY PRECEDING THE POSTING.

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A roll call vote was taken:

Accavitti - No	Jennings - Yes
Blanke - Yes	Hagerty - No
Carnegie - No	Morelli - No
Cilluffo - Yes	

The motion failed with four no votes.

k. Request Council appoint William Morelli as Election Commission Officer.

Member Accavitti moved, seconded by Mayor Hagerty, to APPOINT WILLIAM MORELLI AS ELECTION COMMISSION OFFICER.

The motion carried unanimously.

9. Report of City Administration/Pending Items

Mayor Hagerty suggested, with council's approval, that items 5g, 5h and 5i, moved to this section, be postponed to the next meeting.

Manager Haberman provided Council with an update on the status of the collective bargaining units and boards and commission openings. Members recommended by their boards will be added to the next agenda.

The city currently does not have an ordinance regulating unrequested newspapers being dropped at the end of driveways or at mailboxes. Manager Haberman stated an ordinance may be created to address this nuisance issue.

In response to item 5j, Attorney Dolan responded that the Mayor does have the legal right to make motions and vote on items at council meetings.

10. Report of Mayor and City Council/New Business

Mayor and Council briefly discussed various topics.

11. Citizen Participation

The following residents spoke on various topics:

Kevin Goebel, 33741 Nokomis
Joe DiStefano, 32102 DiStefano Ct
Dave Stouder, Linden

12. Adjournment

Member Accavitti moved, seconded by Member Carnegie, to ADJOURN THE REGULAR COUNCIL MEETING OF THURSDAY, JANUARY 12, 2012 AT 12:49 am.

The motion carried unanimously.

Respectfully submitted,

Kathy Kacanowski, City Clerk

Doug Hagerty, Mayor