

**Fraser City Council - Regular Meeting**  
**Thursday – March 14, 2013 - 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, Carnagie, Cilluffo,  
Jennings and Morelli  
Absent: Council Member Blanke  
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 7:03 p.m. and announced the excused absence of Councilmember Blanke.

2. **Pledge of Allegiance**

3. **Approval of Agenda**

Member Carnagie moved, seconded by Member Accavitti, to APPROVE THE AGENDA AS PRESENTED.

The motion carried unanimously.

4. **Citizen Participation on Agenda Items** - none

5. **Presentations** - none

6. **Public Hearings** - none

7. **Consent Agenda**

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

- a. Approval of Minutes of the Regular Council Meeting of 2/14/13.
- b. Approval of Bills for the Month of February 2013 in the amount of \$972,499.26.
- c. Receive and file minutes of the 12/3/12 meeting of the Historical Commission.
- d. Receive and file minutes of the 12/19/12 meeting of the Planning Commission.
- e. Receive and file minutes of the 2/5/13 meeting of the Parks & Recreation Commission.

The motion carried unanimously.

8. **Requests For Council Action**

- a. **Request Council approve snow emergency ordinance.**

Member Accavitti moved, seconded by Member Morelli, TO APPROVE THE SNOW EMERGENCY ORDINANCE AS PRESENTED.

CITY OF FRASER  
MACOMB COUNTY, MICHIGAN

ORDINANCE NO. 362

TO ADOPT AN ORDINANCE AMENDING AND REVISING IN THE CODE OF ORDINANCES CHAPTER 28 ADDING ARTICLE VIII ROAD CONDITION AND WEATHER EMERGENCY PARKING BAN, PROVIDING FOR PROHIBITION OF PARKING DURING ROAD EMERGENCIES AND INCLEMENT WEATHER CONDITIONS, DEFINING TERMS, PROVIDING FOR NOTICE TO THE PUBLIC, PROVIDING FOR ENFORCEMENT, TERMINATION, EXEMPTIONS, RELATIONSHIP TO OTHER LAWS, REPEALER, SEVERABILITY, PENALTIES, OTHER TERMS AND EFFECTIVE DATE

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**THE CITY OF FRASER ORDAINS:**

**Section 1.** Chapter 28 of the Code of Ordinances of the City of Fraser is hereby revised and amended, adding Article VIII as follows:

**ARTICLE VIII. ROAD CONDITION EMERGENCY AND WEATHER EMERGENCY  
PARKING BAN.**

**Sec. 28-115 Purpose and Intent.**

Emergency road conditions and inclement weather impede the movement of vehicular pedestrian traffic and create public safety concerns. The city engages in various efforts to reduce or eliminate road hazards and the accumulation of snow and ice upon public roadways using equipment which must have efficient and reasonable access to traveled portions of the roadway. This Article is designed to increase public awareness of the problem and to require motor vehicles and operators, to remove vehicles from public roadways when road emergencies and weather emergencies occur. In order to further public safety and welfare and reduce roadway hazards and risks caused by the existence of road emergencies and weather related emergencies around parked vehicles, the city enacts this ordinance.

**Sec. 28-116 Prohibited Parking.**

No person shall park or allow to remain parked, any vehicle on any portion of any street or highway shoulder, or ditch slope, within the city during a road condition emergency, or weather emergency, or park or allow to remain parked, any vehicle in violation of any parking restriction instituted as part of a declared road condition emergency, or weather related emergency as provided in this Article. The registered owner, or lessee, or any of them shall be responsible jointly and severally, for the cost of removal.

**Sec. 28-117 Definitions.**

The following terms shall have definitions as indicated, unless the contexts clearly requires a different meaning:

**City Manager.** Shall mean the City Manager or as otherwise delegated in his or her absence, his or her duly authorized representative.

**Ditch Slope.** The portion of highway adjacent to the shoulder, if one exists, or adjacent to the roadway on roads without shoulders, extending to the bottom of the road side ditch which is not constructed or maintained for the use of any vehicles except those engaged in construction or maintenance.

**Roadway.** The portion of street or highway improved designed or ordinarily used for vehicular travel or parking.

**Shoulder.** A portion of the highway contiguous to the roadway, generally extending the contour of the roadway, not designed for vehicular travel, but maintained for the temporary accommodation of disabled or stopped vehicles otherwise permitted on the roadway.

**Road Condition Emergency.** An event or occurrence resulting in conditions existing upon the subject road requiring the deployment of vehicles and equipment as determined by the City Manager, and as requiring the removal of parked vehicles. Examples are sinkholes, pavement failures and fallen trees.

**Weather Emergency.** An event or occurrence, forecast or existing, involving inclement weather requiring the deployment of vehicles and equipment as determined by the City Manager, requiring the removal of parked vehicles.

**Sec. 28-118 Road Hazard or Weather Emergency Implementation; Automatic Effect.**

Whenever the City Manager finds on the basis of a road condition emergency, or weather emergency, or on the basis of forecast, by the United States Weather Bureau, or other weather service, the weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited, or restricted, for snow plowing or other purposes, the City Manager shall put in effect a parking prohibition on some or all city streets or parts thereof, by declaring it in the manner provided in this Article.

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**Sec. 28-119 Declaration of Emergency and Notice.**

The City Manager upon declaring a road condition emergency or weather related emergency, shall cause public announcement of such parking prohibitions and/or other restrictions in the affected areas by means of broadcast or telecast from various commercial television and radio stations serving the city, if reasonably possible and on the city's cable television channel and website and through the use of the emergency alert notice system of any cable television franchisee serving the city. If the parking prohibition is triggered by declaration of emergency, it shall be effective two hours after the declaration has been announced as measured by first notification on the city's cable television channel and website.

**Sec. 28-120 Enforcement.**

- (a) Members of the Police Department are authorized to remove or cause the removal and/or impounding of any vehicle found parked on any roadway, ditch slope, or shoulder in the city, during a road hazard, or weather emergency. Such vehicle may be removed and conveyed under the direction of a member of the Police Department by means of towing to a vehicle impound lot. The city's primary vehicle towing company may be used to remove such vehicles under the direction of the Police Department where such vehicle is found in violation of this Article, or if unavailable, the police may utilize other licensed and reputable towing companies to assist with clearing the streets of vehicles.
- (b) Police Officers and Code Enforcement Officials shall have authority to issue and serve a municipal civil infraction citation upon any registered owner or lessee of a vehicle found parked in violation of this Article. Such citation shall be in the form prescribed by state law and may be either mailed to the registered owner or lessee, via first class mail or conspicuously affixed to the offending vehicle. A separate municipal civil infraction may be issued for each 24 hour period, during which a vehicle is parked in violation of this Article.
- (c) A registered owner or lessee of a vehicle is presumed for purposes of this Article to be responsible for the operation and parking of that vehicle, and any prosecution under this Article proof that the particular vehicle described in the complaint was parked or left in violation of the provisions of this Article, together with proof that the defendant, named in the complaint, was at the time the registered owner or lessee of such vehicle, shall constitute prima facie evidence that the defendant is responsible for violating this Article.
- (d) This Article shall be supplemental to any other provisions of law, authorizing members of the Police Department the authority to impound vehicles. The provisions of Chapter 49 from the Michigan Vehicle Code shall be followed when impounding the vehicle under this Article except that no advance notice prior to impoundment shall be required other than public notice specifically required by this Article.

**Sec. 128-121 Termination.**

A prohibition under this Article shall remain in effect until terminated by announcement of the City Manager except that if significant conditions creating the road condition emergency, or inclement weather, such as snowing, sleeting or freezing rain has ceased and the street area has become substantially clear from curb to curb for the length of the entire block, such street shall be excluded from the emergency parking prohibition of this Article.

**Sec. 128-122 Exemptions.**

The City Manager shall consider and issue exemptions for weather emergencies where unusual conditions, such as the absence of a driveway, and poor physical health combined, make compliance an undue hardship. In such instances, a placard shall be issued which must be displayed in the rear side window on the driver's side of the vehicle during any snow emergency, in order for such exemption to be valid and effective.

**Sec. 128-123 Relationship to other Ordinances.**

Any provision of this Article which becomes effective by declaration of the City Manager, allows the prohibition temporarily in effect, to take precedence over other conflicting provisions of ordinances normally in effect, except that it shall not take precedence over provisions of ordinances relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer. Nothing in this Article shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

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**Sec. 128-124 Traffic Control Orders.**

This Article shall repeal and nullify and traffic control orders that were previously enacted and in effect pursuant to the authority granted in the Uniform Traffic Code, only to the extent that such traffic control order conflicts with this ordinance. Nothing in this Article shall eliminate or limit the authority of the Public Safety Director to issue future traffic control orders as permitted by the Union Traffic Code as necessary to supplement the provisions of this Article during road hazard, or inclement weather emergencies.

**Section 2. Severability.** Should any word, phrase, sentence or clause of this ordinance be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other word, phrase, sentence or clause.

**Section 3. Effective Date.** This ordinance shall be effective immediately upon adoption and publication due to the emergency nature of the same.

**Section 4. Penalty.** A person or firm who violates this Article is responsible for a municipal civil infraction and shall pay a fine as determined by the court in accordance with Section 1-10 in the Code of Ordinances. It shall not be a defense that a person was not personally, or otherwise advised in advance of the issuance of the violation that their vehicle could not be parked upon the roadway provided the public procedures notification of this Article were followed by the city.

The motion carried unanimously.

**b. Request Council award bid to Corrado Construction in the amount of \$20,995 for an addition to the Baumgartner Depot Visitors Center.**

Manager Haberman noted there is slightly more than \$21,000 in the Historical Commission trust fund. He advised Council that funds are also available through the Historical Society; however, the amount in that fund is currently unavailable. Discussion ensued relative to the Historical Commission budget over the last three years, who will oversee this city project, the need for a second exit in the addition and whether this will be brought to the Planning Commission for review.

Member Cilluffo advised that since Mr. Corrado is his cousin, he is requesting to abstain from voting on this item.

Mayor Hagerty moved, seconded by Member Morelli, TO ALLOW MEMBER CILLUFFO TO ABSTAIN FROM VOTING ON THIS ITEM.

The motion carried unanimously.

Lori Bargowski, 17141 Fourteen Mile  
Joe Chimenti, 33716 Janet  
Nancy Ehrke, 16931 N. Gardenia  
Bob Buffa, 31186 Elodie  
Gloria Buffa, 31186 Elodie

Member Jennings moved, seconded by Member Morelli, TO POSTPONE THIS ITEM TO THE NEXT MEETING.

The motion carried unanimously.

**c. Request Council discuss proposed ordinance governing the licensing of businesses in Fraser, including Second Hand Businesses, to ensure all Council issues are included in a draft ordinance to be presented at the April 2013 meeting.**

Mayor Hagerty explained his concerns with antiques, clothing and repo shops. Discussion ensued relative to zoning regulations.

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Member Cilluffo moved, seconded by Member Jennings, TO RESCIND THE MORATORIUM ON SECOND HAND BUSINESS LICENSES AND REINSTATE THE ORDINANCE.

The motion carried unanimously.

Michael Torrice, 32059 Utica, shared his views of this subject.

Mayor Hagerty moved, seconded by Member Accavitti, TO REFER THE PROPOSED ORDINANCE RELATIVE TO LICENSING OF BUSINESSES TO ZONING FOR REVIEW.

The motion carried unanimously.

Member Jennings moved, seconded by Member Morelli, TO DIRECT THE ADMINISTRATION TO PREPARE A GENERAL BUSINESS LICENSE AND PROPOSED ORDINANCE AMENDMENT.

The motion carried unanimously.

**d. Request Council approve Automatic Check Handling (ACH) and Electronic Funds Transfer policy as recommended by Abraham & Gaffney, Fraser auditors, in audit report of December 2012.**

Member Accavitti moved, seconded by Member Jennings, TO APPROVE AUTOMATIC CHECK HANDLING (ACH) AND ELECTRONIC FUNDS TRANSFER POLICY AS RECOMMENDED BY FRASER AUDITORS ABRAHAM & GAFFNEY IN THEIR DECEMBER 2012 AUDIT REPORT.

**WHEREAS**, on December 30, 2002, the Governor of the State of Michigan approved Act No. 738 of the Public Acts of 2002 authorizing the use electronic transactions by designated officers of the local government; and

**WHEREAS**, the City Council deems that it is in the best interest of the City of Fraser to make certain financial transactions by using electronic transactions as described in the Act;

**NOW, THEREFORE, BE IT RESOLVED**, that the following policy shall govern the use of electronic transactions:

- (a) The Finance Director shall be responsible for establishing all ACH arrangements for the local unit;
- (b) The Finance Director shall draft a written policy to be followed in accordance with the act and presented to the governing body;
- (c) The Finance Director shall be responsible for payment approval, accounting, reporting, and generally overseeing compliance or shall appoint an employee to perform such duties;
- (d) The Finance Director shall submit documentation to the governing body, or person responsible for approving payments by resolution or charter requirements, detailing goods and services purchased, the cost of goods or services, the date of payment, and the department levels serviced ;
- (e) All ACH transactions shall be approved by the Finance Director BEFORE payment is made.

The motion carried unanimously.

**e. Request Council approves Budget Amendment #8 in the amount of \$27,000 from Sale of Abandoned Vehicles to Professional Services to pay for towing, storage and auction fees associated with vehicles abandoned or forfeited to Fraser Public Safety.**

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Member Accavitti moved, seconded by Member Jennings, TO APPROVE BUDGET AMENDMENT #8 IN THE AMOUNT OF \$27,000 FROM SALE OF ABANDONED VEHICLES TO PROFESSIONAL SERVICES TO PAY FOR TOWING, STORAGE AND AUCTION FEES ASSOCIATED WITH VEHICLES ABANDONED OR FORFEITED TO FRASER PUBLIC SAFETY.

The motion carried unanimously.

- f. Request Council discuss and make recommendations regarding the vacant parcel at the corner of Mulvey and Mazara purchased from Macomb County for \$3,677.**

This is a non-buildable piece of land. Attorney Dolan advised the bid process could be waived and instead offered to adjoining property owners, perhaps splitting it. Manager Haberman was directed to contact the adjoining property owners to see if there was any interest in purchasing the property and advise Council.

**9. Report of City Administration/Pending Items**

Manager Haberman advised he is currently working on budget preparations.

**10. Report of Mayor and City Council/New Business**

Mayor and Council discussed various topics.

**11. Citizen Participation**

Joe Soyad, 34272 Doreka  
Eric Gala, 32325 Groesbeck

**12. Adjournment**

Member Jennings moved, seconded by Member Carnagie, to ADJOURN THE REGULAR COUNCIL MEETING OF THURSDAY, MARCH 14, 2013 AT 9:03 P.M.

The motion carried unanimously.

Respectfully submitted,

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Kathy Kacanowski, City Clerk

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Doug Hagerty, Mayor