

Fraser City Council - Regular Meeting
Thursday –September 12, 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, 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**
3. **Approval of Agenda**

Member Cilluffo moved, seconded by Member Jennings, to ADD 12a FOR COUNCIL TO CONSIDER APPROVING AN 18 MONTH EXTENSION OF THE CITY MANAGER'S CONTRACT WITH NO CHANGE TO THE CONTRACT.

The motion carried unanimously.

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

The motion carried unanimously.

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

a) Fraser Lions Club members Dale Moase, Matt Hemelberg and Don Kiefiuk, Lions President, thanked everyone for a successful carnival and presented checks as follows:

\$8000 fireworks donation, \$12,362.09 invoice payment, \$1125 each to DARE, DPW for safety equipment, Boundless Park and Honor Guard.

b) Deborah Garrett, from CARE, spoke briefly regarding a proclamation recognizing September as National Recovery Month.

Member Carnagie moved, seconded by Member Accavitti, to APPROVE A PROCLAMATION RECOGNIZING SEPTEMBER AS NATIONAL RECOVERY MONTH.

The motion carried unanimously.

6. **Public Hearings** - none
7. **Consent Agenda**

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

- a. Approval of Minutes of the Regular Council Meeting of 8/8/13.
- b. Approval of Bills for the Month of August 2013 in the amount of \$1,303,943.74.
- c. Receive and file Minutes of the 6/19/13 Planning Commission Meeting.
- d. Receive and file Minutes of the 7/9/13 Parks and Recreation Commission meeting.
- e. Receive and file Minutes of the 8/6/13 Parks and Recreation Commission meeting.

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- f. Appointment of Jerry Brown to the Parks and Recreation Commission to replace Lynn Evans-Rottman, with term to expire December 31, 2013.
- g. Receive and file Minutes of the 7/8/13 Historical Commission meeting.
- h. Approval of Proclamation declaring the week of September 17 to 23 as Constitution Week.

The motion carried unanimously.

8. Requests For Council Action

- a. Request Council authorize the addition of 13 Mile Rd. and Hayes for solicitation by the Hope Center of Fraser.**

Janet Kimball, a HOPE Center volunteer, was present to explain their request. Since this intersection borders other communities, it was clarified that this request is only for westbound traffic in Fraser.

Member Blanke moved, seconded by Member Carnagie, to AUTHORIZE THE ADDITION OF 13 MILE ROAD AND HAYES FOR SOLICITATION BY THE HOPE CENTER OF FRASER.

The motion carried unanimously.

- b. Request Council approve the MDNR Grant Resolution as amended by request of MDNR.**

Linda Davis Kirksey and Vania Apps advised that the Michigan Department of Natural Resources has requested this resolution include particular language and identifying how money will be distributed, which is the reason for the revision.

Member Blanke moved, seconded by Member Carnagie, to APPROVE THE MDNR GRANT RESOLUTION AS AMENDED BY REQUEST OF MDNR.

RESOLUTION ACCEPTING MDNR DEVELOPMENT PROJECT GRANT

“RESOLVED, that the City of Fraser, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources (DEPARTMENT), and that the City of Fraser, Michigan does hereby specifically agree, but not by way of limitation, as follows:

- 1. To appropriate all funds necessary to complete the project during the project period and to provide TWO-HUNDRED SEVENTY-ONE THOUSAND (\$271,000) dollars to match the grant authorized by the DEPARTMENT. The matching funds are made up of \$64,100 cash, \$83,900 force-account labor and \$123,000 donated labor and/or material
- 2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times.
- 3. To construct the project and provide such funds, services and materials as may be necessary to satisfy the terms of said Agreement.
- 4. To regulate the use of the facility constructed and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.
- 5. To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution.”

The motion carried unanimously.

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- c. Request Council approve an amendment to the City Pension Plan allowing for the purchase of 5 years of “air time” with the employee paying full cost of actuary study and the cost of purchasing the time.**

Manager Haberman explained this item had been discussed at the Pension Board meetings and is now brought to Council for their consideration. Once an actuarial study is done, the study will only be valid for 90 days.

Mayor Hagerty voiced his concerns with the pension fund currently 50% funded and with the figures the actuary currently uses in calculations.

There was some discussion on the Early Retirement Incentive Program and Manager Haberman clarified that this is not relative to the E.R.I.P.'s. He also noted that due to the high cost, approximately \$30,000 per year, most employees will not take advantage of this.

Member Carnegie questioned there being no negative impact and Manager Haberman explained the only negative impact would be on the cost of replacing an employee.

Larry Maniaci, 15878 Kingston Dr., spoke regarding this item.

Member Jennings moved, seconded by Member Blanke, to APPROVE AN AMENDMENT TO THE CITY PENSION PLAN ALLOWING FOR THE PURCHASE OF FIVE YEARS OF “AIR TIME” WITH THE EMPLOYEE PAYING FULL COST OF THE ACTUARY STUDY AND THE COST OF PURCHASING THE TIME.

The motion carried 6-1
with one no vote by Mayor Hagerty

- d. Request Council refer Ordinance governing precious metals dealers to the Planning Commission for action.**

Attorney Dolan explained this draft ordinance includes several items and also references restrictions on where these types of businesses can be located in relation to similar businesses.

Member Cilluffo voiced concern that the attorney had been asked to prepare this draft ordinance and discussion ensued relative to why this was being done without a vote of Council. Manager Haberman stated he took the initiative to request this draft ordinance after conversations with some council members.

Member Jennings questioned whether pre-existing businesses would be “grandfathered” and Attorney Dolan advised they would be. He also noted this draft ordinance includes many items which Council can remove as they choose.

The following residents voiced their opinion on this item:

Larry Maniaci, 15878 Kingston Dr.

Vince Calabrese, 17926 Breezeway

Member Carnegie moved, seconded by Member Jennings, to APPROVE REFERRING ORDINANCE GOVERNING PRECIOUS METALS DEALERS TO THE PLANNING COMMISSION FOR ACTION.

The motion carried unanimously.

9. Report of City Administration/Pending Items

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Manager Haberman advised MERS is currently reviewing our pension plan. Once their review is complete, unions will be notified and several steps must be taken before this is presented to Council for consideration.

He also advised Council that staff is working on a Capital Improvement Program. Since a referendum would be required for capital improvements to the water and sewer system, Manager Haberman stated a special election could be held in February. In addition, a proposal to move the water/sewer fixed costs to taxes could also be included in this special election. If a referendum is successful, work could begin in the spring. More information will be provided.

10. Report of Mayor and City Council/New Business

Mayor and Council discussed various topics. Member Carnagie noted the cement at the entrance to the Activity Center is in poor condition and may need repairs.

Member Accavitti inquired about Inacomp billings, Senior Housing heating and cooling units and two consulting invoices relative to the Helro Drive project.

Mayor Hagerty invited Christina Woods, Recreation Director, to speak at this time relative to the Fraser Family Fun Fest.

After Ms. Woods spoke, Mayor Hagerty requested the City Manager provide two 24 month reports showing charges from past auditing firm, Plante Moran, and current auditing firm, Abrahm Gaffney.

11. Citizen Participation

Kathy Maitlin, Sterling Heights resident spoke about Human Trafficking

Larry Maniaci, 15878 Kingston Dr.

Vince Calabrese, 17926 Breezeway

Sarah Kelley, 16664 Erin

Jeremiah & April Shaw, 32376 Crestwood

Bob Buffa, 31186 Elodie

Vania Apps & Anna Cameron, Fraser First Booster Club

12. Request Council Enter Into Closed Session Pursuant to 15.268(a) of the Open Meetings Act, Act 267 of 1976 as Amended, to Consider A Periodic Personnel Evaluation of the City Manager and to Consider the Written Legal Opinion of Legal Counsel.

Mayor Hagerty asked Attorney Dolan several questions regarding the Open Meetings Act and whether a member was required to enter into a closed session. Attorney Dolan advised a member is not required to go into closed session but recommends two separate motions since the evaluation requires a simple majority vote and the legal opinion requires a 2/3 vote.

Discussion ensued with Member Accavitti voicing his concern on the evaluation process. Member Carnagie agreed and requested this be placed on next month's agenda. Manager Haberman noted his contract is set to expire in December.

Mayor Hagerty moved, seconded by Member Cilluffo, to ENTER INTO CLOSED SESSION TO CONSIDER A PERIODIC PERSONNEL EVALUATION OF THE CITY MANAGER.

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A roll call vote was taken to enter into closed session at 9:57 p.m.:

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

The motion carried 4-3.

Member Morelli moved, seconded by Member Jennings, to ENTER INTO CLOSED SESSION TO CONSIDER THE WRITTEN LEGAL OPINION OF LEGAL COUNSEL.

A roll call vote was taken to enter into closed session at 10:00 p.m.:

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

The motion failed
due to lack of 2/3 vote.

Mayor Hagerty and Members Accavitti & Carnegie declined attendance at the closed session.

At this time, 10:25 p.m.. the meeting reconvened.

12a. Request Council Consider Approving an 18 Month Extension of the City Manager's Contract With No Change To The Contract.

Mayor Hagerty referred to Section 6.7c of the City Charter and questioned Attorney Dolan on whether a member would have to disqualify them self from voting if they had a more than professional relationship with the City Manager. Attorney Dolan explained this section refers to a member having a financial interest in the item and that there are no state laws, city ordinances, resolutions or policies in place that addresses this type of issue.

Mayor Hagerty stated that he had been approached by several people who were concerned about this type of relationship. He is concerned that the confidence of this body is being eroded and the public trust is being undermined.

Member Cilluffo reminded Council this is a vote to extend the City Manager's contract.

Member Blanke stated that when she was a department head, she was also married to a Mayor who voted on her pay. She also stated that unless something is immoral, this body is not here to judge, they are here to serve the community.

Member Morelli questioned Attorney Dolan on whether there were any references to unmarried persons and he stated there were none.

Member Cilluffo CALLED TO QUESTION at 10:44 p.m.

Ken Imler, Hawk Industries/Deluxe Development voiced his opinion on this item.

Member Carnegie stated that he is in favor of Manager Haberman and the job he is doing. He is only concerned with the evaluation process.

Member Accavitti agreed that he is only concerned that the process is flawed.

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Member Cilluffo moved, seconded by Member Morelli, to APPROVE AN 18 MONTH EXTENSION OF THE CITY MANAGER’S CONTRACT WITH NO CHANGE TO THE CONTRACT.

The motion carried 4-3
with no votes by Mayor Hagerty and
Members Accavitti & Carnegie.

12. Adjournment

Member Morelli moved, seconded by Member Accavitti, to ADJOURN THE REGULAR COUNCIL MEETING OF THURSDAY, SEPTEMBER 12, 2013 AT 10:49 P.M.

The motion carried unanimously.

Respectfully submitted,

Kathy Kacanowski, City Clerk

Doug Hagerty, Mayor

/kk