

RECORD OF PROCEEDINGS  
**OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

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March 30, 2020

The City Council of the City of Gardner, Kansas met in special session on March 30, 2020, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Rich Melton, Mark Baldwin, Randy Gregorcyk and Tory Roberts. City staff present were City Administrator James Pruetting; Utilities Director Gonzalo Garcia; Finance Director Matthew Wolff; City Attorney Ryan Denk; City Clerk Sharon Rose; and Business Services Manager Amy Foster. Others present included those listed on the attached sign-in sheet and others who did not sign in.

**CALL TO ORDER**

There being a quorum of Councilmembers present, the meeting was called to order by Mayor Shute at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Mayor Shute led those present in the Pledge of Allegiance.

**NEW BUSINESS**

**1. Consider rate/billing options for electric utility customers**

Business Services Manager Amy Foster shared background from the last meeting regarding the rate structures that went into effect on January 1, 2020. The presentation contains options previously discussed and also new options. Ms. Foster presented the following options:

- Option 1: Provide a one-month holiday to “all-electric” residential customers. This option involves not charging “all-electric” residential customers for their March consumption. “All electric” customers would receive an adjustment to their account for the March billing cycle. The financial impact would be approximately \$235,141. This option would require that all 1,302 electric residential customer accounts be analyzed and recalculated for each month. March bills were lessened due to conservation methods and mild weather. Staff would work with customers to reduce consumption before the next winter rates take effect.
- Option 2: Provide a one-month partial holiday to “all-electric” residential customers. This option involves not charging “all-electric” residential customers for their March consumption over 800 kWh. The financial impact would be approximately \$131,661. This option would require that all 1,302 electric residential customer accounts be analyzed and recalculated for each month. Staff would work with customers to reduce consumption before the next winter rates take effect.
- Option 3: Provide a credit to “all-electric” residential customers if they paid more under the new rates when compared to the old rates for the months of January, February and March. This option will cost approximately \$97,987. This option would require that all 1,302 electric residential customer accounts be analyzed and recalculated for each month. Bill their consumption under previous rate for the first three months, but the rate stays the same.
- Option 4: Repealing ordinance 2597 in its entirety and provide a credit to “all-electric” residential customers (same as the option 3 credit). This action will cause rates to return to previous levels. This option would cost \$97,987 and require that all 1302 “all-electric” residential customer accounts be recalculated for January, February and March. Returning to the old rates would decrease the rates for “all-electric” customers and increase the rates for all other residential customers.
- Option 5: Amend ordinance 2597 to phase in the new electric rates for “all-electric” residential customers. A two-year phase in would result in approximately \$448,189 in lost revenue. The four-year phase in would result in approximately \$775,078 in lost revenue.
- Option 6: Amend ordinance 2597 to create a rate of \$0.05 per kWh for consumption over 800kWh for “all-electric” residential customers and credit “all-electric” residential customers for the amount paid over the new proposed rate for January, February and March. This option would result in approximately \$270,388 in lost revenue annually.
- Option 7: Provide a one-month holiday to electric residential customers versus just the “all electric” residential customer. Residential electric customers would receive an adjustment to their account for the March billing

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cycle. This option involves not charging electric residential customers for their March charges. This is easiest to implement. The city decided before the governor's order to waive late fees and shut-off charges and not shut off utilities. Customers have been grateful for that, knowing they won't have their utilities shut off while they are home indefinitely. Staff pushed billing for March earlier so they could see the numbers. The financial impact would be a one-time decrease of approximately \$733,573, to cancel out all of the electric charges to residential customers that are on the city's electric system, including service charges, power cost adjustment and consumption charges. Of that, the "all electric" residential would be \$207,367 and the non "all electric" customers would be \$526,206.

- Option 8: Provide a one-month partial holiday to electric commercial customers, who have also been impacted. This option involves not charging electric commercial customers for the first 5,000 kilowatt hours of March consumption. It does not include service charges, power cost adjustment, or demand charges. The financial impact would be a one-time decrease of \$56,828 based on what was actually billed.

Council approved options to mitigate impact of new rate structure at the work session: removed late fees, approval to budget billing program without meeting qualification standards, payment plans; currently staff is asking customers to wait until they can come to city hall in person. Staff will work with them after usage goes down. Once city hall is open to the public again, staff will send out notices that the city will not disconnect them right away, but give them a period of time to come in and make adjustments and plans to avoid disconnect. Staff received responses from 5 agencies regarding energy assessments from 5 agencies, but no one has signed up yet. She hasn't pushed that as an option yet due to time constraints, but it's a great advantage for any customer.

Mayor Shute read into record three public comments that were sent in prior to the meeting:

- Judith Rogers, 832 S. Juniper Terr – "I believe citizens who can document that they are receiving unemployment benefits at this time, then they should be able to waive payment of their utility bills for several months, especially considering the large reserve we have now. Please forward this memo to the Mayor, City Council members and the City Administrator."
- Michael Kreller, 18413 Sycamore Ct. – "I am begging that our City Council Members not raise the City of Gardner current electrical rates for single family households in the City of Gardner. I realize that we are a growing community, but increasing costs for water, private haul trash pickup (Gardner Disposal), and increasing taxes are making it more and more difficult for those of us who are retired and on fixed incomes to maintain our homes and lives in Gardner. Please consider us when you make decisions regarding increasing any city service rates."
- Christopher Wagner, 1199 E. Santa Fe, Lot 100 – "Ok so i got yall letter in mail kinda of late after the fact. My bills dramatically doubled or i live in Conestoga i am all-electric i am a single dad 1 child i make too much to get assistance i unplugged every non. Essential in my home changed most of my lights to led but going from 150 to 200 to 336 338 that crazy so the ppl that your letter stated in home engery management at no cost how they supost to help me? Ive looked into solar but since i am in a mobile home i dont qualify really sinks i am struggling even worse"

Kacy Deaton, 533 N. Winwood – She thanked Amy Foster for all the options, and can't imagine all the work she has done the last few months gathering all the information. Ms. Deaton emailed council this week, but wanted to be heard at the meeting. A large surprise bill for any household is unwelcome. She got one just after Christmas, and had to remove electronics. Her family had to take into consideration their own conservation. She budgets for her bill, she doesn't budget for everyone's electric bill. Taking money from all the citizens to give to a few doesn't sit well. She supports the payment plans, and knew that was offered before the pandemic, but to change rates and have the city lose so much money when everyone is struggling, she doesn't want council to take tax dollars from everyone to give to a few.

Councilmember Baldwin asked what are they trying to solve? Those were a lot of options to affect a lot of people in a lot of different ways. Mayor Shute said they are fulfilling the mission of the electric utility, which is to serve the

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citizens of the community. The late options, 7 and 8, were with that in mind. Baldwin asked is it to help as many as possible or those who are hurting the most? Shute said both, everyone is struggling.

Councilmember Winters said as they got options and emails, he was thinking along options 7 and 8. Now they have been given this information with numbers. His issue with some other options is that they single out a certain group to help, and could take money from the other citizens. Options 7 and 8 are unusual, he doesn't know if it's ever been done, but it's a unique time in the area and the country. The city owns its own utility and has an excess of reserves. This is a chance for the city to make a large gesture. There are a lot of people without income right now, worried about paying bills, and the council can make an immediate difference. It applies to everyone across the board. This would be well received in the community, but also state wide or nationally. It's a great way to help the residents. It's a lot of money, but it's a one-time thing. He supports option 7, but also option 8 because they need to look out for business customers as well.

Councilmember Roberts agreed with Councilmember Winters, and likes the last two options. It's a unique solution for a unique situation. It will hit budget and reserves, but it will go a long way. People are struggling. They will have to figure out how to budget later on. Mayor Shute asked Finance Director Matt Wolff what's the direct budgetary impact on this other than the \$800,000? Director Wolff said they ended 2019 with \$12.3 million dollar fund balance, and another \$3.1 million in the electric CIP reserve fund, which won't be touched, but they have a robust fund balance of 80% fund balance in just the electric fund. It's not going to impact the immediate budget. They will try to hold rates steady as possible. Costs will go up over time, and eventually be in a deficit. Theoretically, they will need to raise rates to counteract the future deficit, but this could mean moving planned rate structures up a year. Mayor Shute said that's assuming the projections based on 3% increase in expenses on an annualized basis. Wolff confirmed and said if the city continues to grow with more electric customers, they may not have to increase earlier, with that being 4-5 years out. Shute said this is a one-time hit. They are not giving money back to people, they are forgoing revenue.

Councilmember Baldwin noted that the CAF wasn't out before public comment. When it's a special meeting, staff should publish the CAF early for residents, especially if they are asking for comment ahead of the meeting. Ms. Foster held it up for billing so she could have accurate numbers. Baldwin was not criticizing staff, just noting this going forward. He said the website is still misleading, referencing that everyone gets a 2%, not indicating that there's ever a time when all-electric would not get 2%. Baldwin continued, stating he is not in favor of 1-4 or 6 because they aren't equitable. They are picking a group to get special treatment. Options 7 and 8 are similar, but giving a whole holiday to residential and only a half holiday to commercial. Option 5 is irresponsible. That's not following the plan or guidance from the consultants. If they roll it back and phase it in, it voids the entire rate study and implementation. Why spend money on a rate study then? Regarding options 7 and 8, how many are still behind for January and February and are all-electric customers? Ms. Foster said out of the 1300, they have about 200 payment plans in place that are considered longer-term than one month. Baldwin said for options 7 and 8, if they do a full or partial is arbitrary, and staff picked March. Why not January? Why not an average of last year? They could have said 10% of any number, or everyone gets \$100. The rates needed to change, the consultant told the city what to do, they delayed implementation by a year so rollout would be good, communication could have been better. They offered mitigation options to help those that got hit with big bills. Council voted on this in January 2019. If they delayed 6 months, had perfect communication, would they be talking about this now? Are they going to talk about this again in July and August when water rates go up and still in pandemic? What is Gardner Samaritan program doing? They are talking about gifting money to the population, it sounds like charity and not government. Shute noted that Councilmember Baldwin has said for many years the city has overcharged customers and that's led to the large fund balance. Baldwin's suggestion has always been to do something directly related to electric or give the money back. Shute said he's going in the second option. There are people in the community who are hurting right now with job loss, bills, mortgages, rents, and that's why options 7 and 8 make sense, both together, not 7 OR 8. This is an equitable way to use some reserve to give back to those in the community, and they aren't giving it back, forgoing revenue for one month. March was chosen so staff don't have to go back and adjust 8,000 bills. Better to do it now, forgo March revenue than go back and re-bill February. Gardner Samaritan project doesn't have

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a large fund to assist people with cash payments. The city has the money that, as Baldwin has said, been overcharged of the customer base. This is a way to help existing customers through until federal checks come in. Councilmember Baldwin said they overcharged and need to repay, but that's why the rate study takes it into account, and eventually they run into a deficit. This is a whim. They are giving it back. A credit on the account is the same as giving people money. If they give everyone a full holiday, they will have to pay that money back. It will increase rates later and could be worse for the all-electric customers based on Utilities Director Garcia's previous presentation. Shute said that's why staff will work with them on usage. Baldwin said there are some things that can't be fixed in a home. Some residents will still have difficulty reducing their usage significantly. How is this about a usage improvement if it's not going to do much good for many residents?

Councilmember Gregorcyk asked for clarification on a spreadsheet. Referring to the stimulus package for commercial, it's at \$254,398, what is 100% of that, double, so \$508,000. This is for option 8, half-holiday, what is full burden versus option 8? Ms. Foster clarified that the \$254,398 is for full commercial holiday at 100%. Mayor Shute said that the structure for commercial was to give greatest benefit to the smallest businesses. Gregorcyk reiterated that the impact is \$254k for commercial, and a large majority of that is small business owners that keep the country going. Shute corrected and said the large majority is the large businesses that are paying that. Gregorcyk said the large is at \$90k, medium is at \$87k, and small is \$59k. Councilmember Baldwin said if they pretend there's no money in the reserve, which is not a reserve as it was factored into the rate study, if the account is zero, now what? Shute said it's hypothetical. Baldwin said so is a one-month holiday. Gregorcyk said they wouldn't be having this conversation. Baldwin asked what they will do about water in July, where there is no reserve. Councilmember Winters said they will communicate better to plan for the rate increase. Ms. Foster said water rates have gone into effect, have given notice and tips on water conservation, and they tied in wastewater as well. Baldwin said they did a good campaign, but it's after the winter average and water usage goes up in summer. Will these options be discussed then? Shute said they are only discussing electric today. Baldwin said they could give a big electric credit to offset the water since it has a reserve. Shute said it's a one-time one month holiday. Baldwin said options 7 and 8 at 100% will be \$1M dollars. It's not responsible. Shute said they want to run the electric utility like a business. That's the goal. In 2014, they ended the EUB and brought it within the city. Is KCPL working with customers right now in this time? Baldwin said Evergy works with customers on budget billing and even pay plans. The city has already done that. Shute said they are investor-owned, and beholden to shareholders. Shareholders get a direct benefit through dividends, etc. The shareholders of the city utility are the citizens of the community. Baldwin said the dividend of this utility is the general fund because it gets 5% from it. The utility is run revenue neutral so the utility is a service that should be making zero dollars, so there are no dividends to the customers other than good service, and the city has very good service, but the dividends would be the 5% that goes to general fund through the pilot. Shute said that's a franchise fee that would be allocated by an investor owned utility. Shute interpreted that Councilmember Baldwin is rescinding what he said before about paying this back to the residents. Baldwin said that's what the rate study does and why the reserve is run into a deficit in the future. Shute asked Director Wolff, from projections regarding revenues versus expenses for the current two-year period versus what was projected in the 2017 rate study, what is staff seeing? Director Wolff said retail sales were down but fund balance was still growing, partly due to delayed projects. Baldwin said it could be some rate classes were still subsidizing others. 6700 customers were subsidizing 1300 customers last year, and commercial versus residential, so it's possible for revenue to still grow when usage is down. If they don't allocate it properly, as soon as they can, it will continue that divergence and they'll have to correct it later. Shute asked if the cost of electric is same, higher or lower than during the rate study? Wolff doesn't have that answer, but its a policy decision. There is a healthy fund balance right now. Do they use it early, or spend it down over time through future deficits? If they use it now, the next rate increase may occur sooner. Shute said that's assuming projections are correct. Baldwin said that's why they paid for the study. Shute asked why they are using 1% revenue increase year over year versus 3% expenditure increase. Baldwin said they are conservative. Shute said the conservative stance has taken the electric fund from \$3 million to \$15 million. Baldwin said every rate study can readjust that. It's not just numbers, it's what happens with the governing body. This is a bad precedent. When they have to change the rates in the future, they will ask what the numbers would be if the body hadn't done this. Shute said another rate study is coming up in a

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few years. Baldwin said they've done nothing with the current study. Shute said they implemented it. Baldwin said it took three years, there will be an effect to delaying it. They have a plan that they are not putting into place – because they didn't implement it immediately and now they are changing it. Shute said pandemics are unanticipated. Baldwin said electric rates are electric rates governed by the city. Shute said half the may not be able to pay them in two months. Baldwin asked if they will cut all fees? Where will it stop?

Councilmember Gregorcyk said these are not tax dollars, this is a payment for service. The city didn't communicate the rate change to the all-electric customers, and that's the premise for this. Gregorcyk supports option 7, with the amendment that council members are removed from the holiday. It's fair and supports all customers during this time, not just all-electric homes, and it's good timing with the impact of Covid-19. Councilmember Melton clarified that Gregorcyk wants them to vote to give everyone a holiday except councilmembers? Gregorcyk confirmed. Councilmember Roberts asked about option 8. Gregorcyk did not support 8. Mayor Shute asked why they would treat commercial users differently. Gregorcyk said they got notice and were able to make adjustments. Shute said the small businesses that are shut down won't get a benefit. Ms. Foster said these customers have all billed out, which was the hold-up. They needed the full month of March, so instead of telling them next month is free and they can use all the they want, staff has projected something already billed, and can cancel/rebill to show adjustments. The adjustment would be for amounts already used, so for businesses that are closed temporarily, this will make their bill less in the future when they reopen. Shute clarified that those businesses were in operation before Covid-19.

Councilmember Melton asked why the council would be excluded. Councilmember Gregorcyk didn't think they should be legislating something that affects their pockets. Shute said they are ratepayers, as well. Gregorcyk said it was a suggestion and can be thrown out.

Councilmember Winters supports 7 and 8 as they are written. Mayor Shute said that gives commercial the first 5000 kWh and affects small businesses. Councilmember Baldwin asked if all commercial customers are caught up on January and February. Ms. Foster believes so. One is holding out to find out what is being done to assist them. They are a non-profit and was told the city will set up a payment plan with them. Baldwin said if they want to help commercial as much as residential, offer them the payment plans to spread the bills out throughout the year. Shute said they will see significant usage in the summer. Ms. Foster said all-electric commercial customers were paying a discounted rate through summer, half a cent more than they were paying in winter, so what they paid year-round wasn't covering what it took to provide. Their increase was what they needed to pay and it was about 66%, so their bills doubled and will continue that way for the year. Shute said payment plans won't benefit them. Baldwin supports leaving the rates alone as they are.

Councilmember Winters made a motion to authorize the City Administrator to execute Options 7 and 8 as written, for rate relief for March billing, residential and commercial customers for the City of Gardner, Kansas.

Councilmember Melton Seconded.

Councilmember Gregorcyk asked what is the total cost for options 7 and 8 as written? Director Wolff said it's around \$790,000 – the \$733,000 plus \$56,000.

With a majority of the Councilmembers voting in favor of the motion, the motion carried. (Baldwin – No; Winters – Yes; Roberts – Yes; Melton – Yes; Gregorcyk – Yes)

**ADJOURNMENT**

There being no further business to come before the Council, on a motion duly made by Councilmember Gregorcyk and seconded by Councilmember Baldwin the meeting adjourned at 8:13 p.m.

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City Clerk

# City of Gardner, KS

## Council Actions

March 30, 2020

The City Council took the following actions at the March 30, 2020 special meeting:

1. Approved Options 7 and 8 of the rate/billing options for electric utility customers. (Passed 4-1)
  - Option 7: Provide a one-month holiday to electric residential customers. This option involves not charging electric residential customers for their March charges.
  - Option 8: Provide a one-month partial holiday to electric commercial customers. This option involves not charging electric commercial customers for the first 5,000 kilowatt hours of March consumption.