

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

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March 18, 2019

The City Council of the City of Gardner, Kansas met in regular session on March 18, 2019, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Honorable Mayor Steve Shute presiding. Present were Councilmembers Mark Baldwin, Randy Gregorcyk, Rich Melton, Lee Moore, and Todd Winters. City staff present were Interim City Administrator Laura Gourley; Police Chief James Pruetting; Business & Economic Development Director Larry Powell; Utilities Director Gonzalo Garcia; Public Works Director Michael Kramer; Finance Director Matthew Wolff; and City Clerk Amy Nasta. 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.

**PRESENTATION**

- 1. Proclamation and certificates of recognition for Eagle Scouts in Troops 88 and 888**
- 2. 2018 End of Year Financial Report**

Finance Director Matthew Wolff stated that even though the City had passed a two-year budget, it remained important to monitor results so that adjustments could be made as necessary. He said he would be presenting an unaudited report for 2018. He said revenues for 2018 had been 2.6% higher than expected. He said every percentage was the equivalent of approximately \$135,000. He said higher than expected interest earnings was a recent trend for the City. He said General Fund expenditures were 1.7% less than estimated, continued that most cities attempt to get within 5% of their estimates, and thanked the City's excellent fiscal services staff for exceeding this benchmark. He said discrepancies in the Electric Fund were mostly due to the Dogwood Project. He said Water Fund expense discrepancies were caused by delayed capital projects, other projects with lower than expected costs, and changes in how bulk water charges were recorded. He said the General Fund had a 30% fund balance, which was 4% higher than the projection for 2018. He concluded that the electric fund was robust, the water fund was currently robust, though there were major projects coming up, the wastewater fund was adequate, and the overall fiscal condition of the City was sound.

- 3. Kansas Department of Transportation City Connecting Link Improvement Program**

Public Works Director Michael Kramer stated that the current population of Gardner would require the City to provide matching funds of at least ten percent (10%) for consideration for this program. He said KDOT currently has a maintenance agreement with the City of Gardner for routine maintenance of US 56 (Main Street), including snow plowing and pot hole repairs. He said staff would like to submit two projects for KDOT's current call for projects: a complete reconstruction of US 56 from Sycamore to Cedar in 2021, and a complete reconstruction of US 56 from Cedar to Moonlight in 2022. He said complete reconstruction would include removal and replacement of curb and gutter, sidewalks, and driveways for better ADA compliance. He said all pricing was based on the 2018 KDOT quarterly bid average plus an inflation amount that was set on the application. He said the total estimate for 2021 was \$1,749,900, with the City's local match being \$749,900 and the total estimate for 2022 was \$1,559,700, with the City's local match being \$559,700. He continued that the Infrastructure Special Sales Tax and the Special Highway Fund could be used to pay for the local matches. He said that these projects would help to improve overall citizen satisfaction and drivability and would reduce potential lost business in these areas. He said other projects had been considered, but had been more expensive. He said the KDOT local engineer feels these are the best projects for submission.

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Mayor Shute stated that KDOT gives more favorable ratings to applications with higher local matches, so the City should be in good standing. Mr. Kramer agreed. Councilmember Melton stated he felt these areas of Main Street were good selections as they were in the worst repair. Mr. Kramer stated the number one complaint to Public Works since snowfall began over the winter was Main Street. Mayor Shute stated this fit well with downtown revitalization as the downtown corridor project requires roadwork to be done and additional beautification factors to be incorporated.

Councilmember Baldwin asked if these projects could be divided over three years. Mr. Kramer stated the current call for projects was just for 2021 and 2022 and these projects had logical breaking points to fit into this timeline.

Mayor Shute asked what was currently planned for repairing the potholes on Main Street. Mr. Kramer stated KDOT would be coming back in good weather to put in a different type of patching that may hold. He said the base material under some of the existing potholes is gone.

Councilmember Gregorcyk stated taxes are already paid on this and asked when the state could be expected to perform these repairs if the City did not move forward. Mr. Kramer stated that KDOT was adamant that connecting links are the responsibilities of cities. Mayor Shute stated virtually every municipality with significant traffic was being overwhelmed with this problem. Mr. Gregorcyk asked the cost per mile. Mr. Kramer stated the cost was approximately \$1 million per mile. He said this estimate was for ten inch concrete, which would have the lowest life cycle cost.

Councilmember Moore asked how KDOT determined responsibility for maintenance. Mr. Kramer stated KDOT says Main Street is the City's responsibility; the maintenance agreement is just for road maintenance. Councilmember Moore stated the City does not have much industry and is accommodating a large amount of truck traffic. Mr. Kramer stated Main Street is traveled by approximately 15,000 vehicles per day, approximately 500 (or three to five percent) of which are trucks. Councilmember Moore stated this three to five percent causes ninety-five percent of the damage to the road.

Interim City Administrator Laura Gourley asked if the Council would provide consensus to apply.

The Council gave consensus to apply for the program.

**PUBLIC COMMENTS**

Erin Chapman of 1199 E Santa Fe stated she was asking the City for a donation for Project Graduation. She said this was important to the City because graduation night is one of the most dangerous nights of the year for young people. She said Project Graduation offers a free-to-the-graduates party night at a community center with movies and food and no drugs or alcohol allowed. She said they plan to host nearly 400 students and have raised \$12,000, but need \$2,000 more as they want to make enticing for students to want to come.

Councilmember Gregorcyk asked if the Board of Education or USD 231 had provided any support for the program. Ms. Chapman stated they will provide bussing and other services estimated at approximately \$5,000 in value.

Mayor Shute asked for a consensus on the \$2,000 donation, stating \$1,500 was budgeted. Finance Director Matthew Wolff stated the General Fund was four percent higher than anticipated.

The Council provided consensus to donate \$2,000 for Project Graduation.

**CONSENT AGENDA**

- 1. Standing approval of the minutes as written for the regular meeting on March 4, 2019 and the special meeting on March 11, 2019**
- 2. Standing approval of City expenditures prepared March 1, 2019, in the amount of \$988,704.49; March 8, 2019, in the amount of \$108,373.42**

3. Consider a recommendation to the City Council to chip seal Moonlight Road at the Hillsdale Water Treatment Facility
4. Consider authorizing the Mayor to execute an agreement with the Kansas Department of Transportation to construct improvements for the Moonlight Safe Routes to Schools project
5. Consider an Oil Well Permit and License Application for one (1) oil well located in the SW ¼ of Section 14-14-22
6. Consider authorizing the payment of Transportation Project Fees to Mid-America Regional Council
7. Consider a recommendation to appoint City of Gardner representatives to the Kansas Municipal Energy Agency Board of Directors
8. Consider authorizing the City Administrator to execute an addendum with Burns & McDonnell Engineering Co. Inc. for design services on the I-35 and Gardner Road Interchange project
9. Consider authorizing the City Administrator to execute an addendum with Wilson & Company, Inc. for design services on the Santa Fe, Waverly to Poplar project
10. Consider approving a Cereal Malt Beverage (CMB) license for calendar year 2019

Councilmember Gregorcyk made a motion to approve the Consent Agenda.

Councilmember Melton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

#### **COMMITTEE RECOMMENDATIONS**

1. Consider an ordinance changing the zoning classifications or districts of certain lands located in the City of Gardner, Kansas, under the authority granted by Title 17 of the Municipal Code of the City of Gardner, Kansas

Business and Economic Director Larry Powell stated there was a request from the church to reduce the excise tax amount because church had previously given land to the City.

Councilmember Melton made a motion to adopt Ordinance 2605, an ordinance changing the zoning classifications or districts of certain lands located in the City of Gardner, Kansas, under the authority granted by Title 17 of the Municipal Code of the City of Gardner, Kansas

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2605

Moore:	Yes
Winters:	Yes
Baldwin	Yes
Gregorcyk:	Yes
Melton	Yes
Shute	Yes

2. Accept the dedication of right-of-way and easements on final plat FP-19-01 for Divine Mercy Parish

Business and Economic Director Larry Powell stated staff had reviewed this request and looked at future use and expansion of the highway and found there was a need to expand the right-of-way. He said the church had requested a credit for the land since they had originally paid for it. He said the excise tax had been reduced in the amount of \$874.65.

Councilmember Gregorcyk made a motion to accept the dedication of right-of-way and easements on the final plat for Divine Mercy Parish

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Councilmember Moore Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**3. Consider an ordinance changing the zoning classifications or districts of certain lands located in the City of Gardner, Kansas, under the authority granted by Title 17 of the Municipal Code of the City of Gardner, Kansas and the associated preliminary development plan PDP-19-01 for Waverly Plaza**

Business and Economic Director Larry Powell stated the reason for rezoning even though the zones would remain the same was the change in the planned use size area. He said the zoning is compatible with the surrounding zones and the CIP and should in no way effect the school district zoning boundaries.

Mr. Powell stated there were no technical aspects of the building plan that do not meet the City's planning requirements or specifications. He said nine (9) deviations had been requested: Two (2) related to garages, three (3) related to frontage types, two (2) related to sidewalks, and two (2) related to parking. He said these deviations were based on a comprehensive and well designed development plan. He continued that the applicant offered a revised plan which dedicated a portion of the eastern lot to the adjacent neighborhood for open space. He said this would allow access from the townhomes. He said the plan accepted by the Planning Commission was this revised plan allowing for the neighboring HOA to accept the property east of the new development's clubhouse and pool if the neighboring HOA wished to do so,

Tim Homburg of NSPJ Architects stated his company was the architect for the project and had designed and constructed nearly 50,000 units. He said the front of the development was commercial, while the rear was residential. He said the clubhouse and pool would also be integrated into the development. He said the position and size of the development would intermingle nicely with the adjacent townhomes. He said the pool would not be heated, so its use would be seasonal. He said there is space between the pool and neighbors and that they will work with the neighbors to create appropriate screening including fencing and additional landscaping. He said the retail side would use high quality materials such as brick, stucco, and wood accents. He said the residential side would include manor home apartments with enclosed, secure entrances at the ground floor.

Philip DiVilbiss of Leawood, Kansas stated he was the developer for the project. He said he has owned this property for twelve years and at the time he purchased it, only three to four percent of the adjacent neighborhood has been built. He said his company had built Moonlight Plaza and Moonlight Commons and was known for nice landscaping and not having problems with neighbors. He said his original intent had been to build a grocery store on this property and that the City had paid for a study to do so. He said this would have been an 80,000 square foot grocery store with loading docks and garbage receptacles on the side of the development closest to the townhomes. He said the proposed development would bring storm sewers, sidewalks, and gutters to the area. He said he had been offered a large amount of money to sell to a company out of California that wanted to put a diesel repair shop on the property, and the property was zoned for this. He said the project he was proposing was a long term project and would be done to high standards. He said no one would build anything more luxurious in the community because they couldn't afford to as stockholders require returns. He said forty-four units had been removed to allow for greenspace and that his company builds what they say they will build.

Daniel Strong of 720 West Shawnee Court stated he and his wife were not against growth and development and that they wanted to see retail and apartments in Gardner. He said he had been asked to speak on behalf of the twenty-five homeowners in the "horseshoe" around the proposed pool. He said common courtesy should come with development. He said he was a combat veteran, knew what he fought for, and understood that if you own property you can build on it. He said the Council should look at protecting the citizens, not just at what can be brought to the City. He said there should be a resolution that both protects citizens and allows development to proceed.

Mary Pribble of 132 North Pear Street stated the pool would be directly outside of her back gate. She said the architect for the project is amazing and that she has heard nothing but good things. She said the architect's model was typically to place pools in the center of the apartment complex. She said these apartments were being marketed to young millennials, and such projects usually had pools in the middle as people did not want to cross the street to use the pool. She said the adjacent development will now have a hard time getting a mowing

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contract for their greenspace. She said the HOA had been waiting for the final row of townhouses to be built before doing something with the space for their neighborhood. She said the HOA would be declining the developer's offer of additional land as there was a large drain in the middle.

William McGee of 729 West Shawnee Court stated he was the president of the reserve that represents the condos. He said they had maintained this area in the past believing there would be condos built there in the future. He said it was opportunistic that the piece of property the pool was to be built on was sold and he felt the pool could be built on the apartment side of the street in order to maintain the continuity of the condo area. He said they did not need the additional property where the drainage was located due to the liability of trying to maintain it. He asked why the developer had not worked with them to make the clubhouse a greenspace area and limit the use of land as the clubhouse would break up the existing planned community.

Kate Shawford of 297 North Pecan stated she lived in the adjacent community, but in the area furthest from the pool and apartments. She said she had concerns about liability and safety as putting in an apartment complex means additional foot and vehicle traffic near her house each day. She said this would mean additional people visiting her neighborhood park and pool area who were not allowed to be there. She said this would result in vandalism, assault, and drug paraphernalia from those who were not allowed to be there. She said she found the pool placement to be rude. She said at the Planning Commission meeting there had been insinuations that the concerns of the adjacent community were jumping ahead. She said once the pool was built, there was no changing it. She said the pool would be sixty-six feet from some houses.

Christine Wilson of 132 North Pecan Street stated the apartment complex would include 144 units. She said there were only one and a half parking spaces per unit even though many of the apartments had multiple bedrooms. She said this would result in lots of crowding and that parking on the street would be chaotic. She said she had stated at the Planning Commission meeting that 77% of Gardner was under 44, while in Johnson County as a whole this number dropped to 61%. She said Gardner was a stepping stone to other things as realtors could not find single family homes for beginners. She said there were no starter homes available in Gardner, only multiple family homes. She said roads to be built were a concern as well. She said nearby schools such as Madison and Pioneer Ridge were also already near capacity or overcrowded and adding 144 apartments to the area would not help. She said USD 231 had already sent out information offering different options for redistricting, some of which required attending schools in Edgerton.

Andrew Bridges of 314 Laurel stated he was concerned about children getting to Gardner Edgerton High School or Madison without sidewalk infrastructure. He said there were no plans for sidewalks along the north side of Washington to Waverly. He said the City should work with the school district to put in a good sidewalk on the north side of the development as the school district owns the land to the north. He said students wishing to walk to school would need to cross four intersections. He asked where extra parking would be. He asked if the City could add no parking signs to public streets. He asked the City to consider lighting and signage at Waverly and Santa Fe and the addition of drainage along Santa Fe.

Diane Owen of 131 North Pear Street stated she was the president of the HOA for the Waverly Pointe Master Homes Association. She said that the HOA appreciates building and development in Gardner and that they have been waiting for this development for ten years. She said the HOA had a vision as well but things had changed. She said the neighbors had come together over the past 7-10 years when the builders had left them. She said the HOA had done everything on their own, including building a neighborhood park and pool. She said vandalism to these amenities has cost the HOA money. She said they could foresee issues with trespassing, traffic, and parking, and she was asking the City to work with the HOA to help them prepare for these issues. She said she would like for the pool to be moved and have a pet park or a park for children put in its place.

Councilmember Melton asked if the parking met code and included the garage spaces. Mr. Powell stated the parking requirements were met for both the commercial and residential portions of the planned development. He said this did include parking on both 174<sup>th</sup> Street and Laurel in order to offset the interior greenspace. Councilmember Melton stated this was a personal property rights issue. He said the developer owns the land and should be able to put in the development so long as it meets criteria. He said when a homeowner purchases a house next to an open field, they are taking a chance.

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Councilmember Gregorcyk stated he had attended the Planning Commission meeting and suggested the Planning Commission receive training on etiquette, civility, and rules. He said City Attorney Ryan Denk had provided solid direction in the meeting regarding meeting due diligence for planning and zoning requests, but that this had not been seized upon and could have bought time for both parties to understand their opportunities. He said the pool will not be heated so will only be open when it is warm. He asked if there would be fencing around the pool. Tim Homburg of NSPJ Architects stated the code requires fencing. Councilmember Melton stated the neighborhood pool across the street from the proposed pool had the same fence.

Councilmember Gregorcyk asked if there was a sidewalk requirement to connect. Mr. Powell stated the planned direction for pedestrian traffic would be to follow the sidewalks east to west then go north on the ten-foot sidewalk that will be on Waverly. He said this was part of the planned improvements to Waverly. He said there was no direct sidewalk to the school from this development.

Councilmember Gregorcyk stated he felt the opportunity had been missed at the Planning Commission meeting to understand zoning, due diligence, and fit, form, and function. Mayor Shute stated the situation could have been handled better. He said the Planning Commission had tried to find an answer in good faith but had gone about doing so the wrong way.

Councilmember Moore stated he was sympathetic to the argument about the pool, but that the question before the Council was about zoning and planned development. He said he did not see how a property owner could be compelled to move their pool or make changes so long as it meets code and does not violate the comprehensive plan. He said there was nothing in the arguments for moving the pool the Council could work with. He said he was supportive of a sidewalk on the north side of 174<sup>th</sup> Street along with street parking signage on the eastern edge of Laurel. Mayor Shute stated the City could work with school district regarding the sidewalk as it would benefit both the project and the neighboring community.

Councilmember Gregorcyk asked how this would tie in with the current trail system. Mr. Powell stated this project ties into the trail system in multiple ways. He said the City is trying to address Safe Routes to School and sidewalk issues. Councilmember Moore stated a big part of what supports this project is the installation of sidewalks and drainage.

Councilmember Gregorcyk asked for the projections for traffic lighting at Santa Fe and Waverly and at 174<sup>th</sup> and Waverly. Public Works Director Michael Kramer stated there was currently no need for signalization at 174<sup>th</sup> and Waverly. He said Santa Fe and Waverly may need to be signalized in the future, and staff would continue to look into this as development progressed.

Councilmember Baldwin stated he appreciates the developer can do what he wants and said this appears to be a nice development. He said the developer's willingness to reduce the size of the clubhouse and provide land to the neighboring HOA shows that the developer wants to work with neighbors. He said he also appreciates the concerns about noise from the pool, but the development meets zoning and other requirements. He encouraged residents and the developer to work through vegetation and fencing around the pool area prior to acceptance of the final plat. He said this is a win for the area and will bring needed sidewalks and drainage. He said he will support the development.

Councilmember Winters stated there had been some concerns about lighting and asked if lighting requirements could be clarified. Mr. Powell stated the concerns were about lighting in and around the clubhouse shining towards the adjacent property. He said City code requires lights to focus downwards and stay within property boundary lines. He said these lighting requirements would be the same for adjacent property owners with lights shining towards the pool. Councilmember Winters stated vegetation will mitigate these concerns and will be helpful for both sound and lighting.

Councilmember Baldwin thanked Mr. Powell for answering all of his questions.

Councilmember Gregorcyk stated he wished to clarify his forthcoming vote. He said he respects the Planning Commission process, but it needs to improve. He said the problem was at the Planning Commission level not at the Council level.

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Mayor Shute stated staff had been proactive about this issue with both the developer and homeowners since the beginning and deserved special thanks for this. He said he believed a resolution would be found for many of these issues and the developer was trying to mitigate concerns and be a good neighbor. He said staff would keep the communication lines open and help to facilitate this. He said this would be a top notch development and would increase the quality of life for everyone.

Councilmember Moore made a motion to approve Ordinance 2606, an ordinance changing the zoning classifications or districts of certain lands located in the City of Gardner, Kansas, under the authority granted by Title 17 of the Municipal Code of the City of Gardner, Kansas, and the associated preliminary development plan PDP-19-01 for Waverly Plaza

Councilmember Melton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2606

Winters:	Yes
Baldwin	Yes
Gregorcyk:	Yes
Melton	Yes
Moore:	Yes
Shute	Yes

**OLD BUSINESS**

**NEW BUSINESS**

**1. Consider adopting an ordinance amending Chapter 2.05.040, of the Municipal Code of the City of Gardner, Kansas, entitled "Governing Body Rules Of Procedure"**

City Clerk Amy Nasta stated that New Business items 1-4 were housekeeping items. She said the first ordinance would adopt the updated version of *Governing Body Rules of Procedure*, which incorporated all of the changes requested by the Governing Body during the two presentations previously provided regarding the item.

Councilmember Melton made a motion to adopt Ordinance 2607, an ordinance amending Chapter 2.05.040, of the Municipal Code of the City of Gardner, Kansas, entitled "Governing Body Rules Of Procedure" and incorporating by reference the Governing Body Rules Of Procedure, under the provisions of K.S.A. 12-3009 through 12-3012

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2607

Baldwin	Yes
Gregorcyk:	Yes
Melton	Yes
Moore:	Yes
Winters:	Yes
Shute	Yes

**2. Consider adopting an ordinance amending Ordinance no. 2497 of the City of Gardner, Kansas**

City Clerk Amy Nasta stated the next three items were amended ordinances for the Airport Advisory Board, Utility Advisory Commission, and Board of Building Code Appeals, respectively, and that these three ordinances incorporated the previous Chapter 2(H) of *Governing Body Rules of Procedure*, which related to Board and Commission appointments and which had been removed from *Governing Body Rules of Procedure*. She said the

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major changes to the previous process were the elimination of the publication requirement in the official newspaper, as this added a considerable amount of time to the process, and the addition of a stipulation allowing the interview team to select candidates without interviews if there was a unanimous vote among the interview team to accept all candidates, should there be the same number or fewer of applicants as there were openings. She said an updated ordinance combining the Board of Zoning Appeals and the Planning Commission was currently being created by Attorney Denk and would be presented at a future meeting.

Councilmember Gregorcyk made a motion to adopt Ordinance 2608, an ordinance amending ordinance 2497 of the City of Gardner, Kansas

Councilmember Melton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2608

Gregorcyk:	Yes
Melton	Yes
Moore:	Yes
Winters:	Yes
Baldwin	Yes

**3. Consider adopting an ordinance amending Ordinance no. 2569 of the City of Gardner, Kansas**

Councilmember Melton made a motion to adopt Ordinance 2609, an ordinance amending ordinance 2569 of the City of Gardner, Kansas

Councilmember Moore Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2609

Melton	Yes
Moore:	Yes
Winters:	Yes
Baldwin	Yes
Gregorcyk:	Yes

**4. Consider adopting an ordinance amending Ordinance no, 2474 of the City of Gardner, Kansas**

Councilmember Baldwin made a motion to adopt Ordinance 2610, an ordinance amending ordinance 2474 of the City of Gardner, Kansas

Councilmember Gregorcyk Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2610

Moore:	Yes
Winters:	Yes
Baldwin	Yes
Gregorcyk:	Yes
Melton	Yes

**COUNCIL UPDATES**

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City Clerk Amy Nasta stated Councilman Melton had indicated he will be absent for the April 1, 2019 City Council meeting and if any other Councilmembers would not be able to attend to provide notice as soon as possible as there would no longer be a quorum.

Finance Director Matthew Wolff stated there had been an item in the Friday Minute Memo regarding the City's selection by KPERS for a payroll audit covering the past three years. He said the preliminary results were a clean audit and thanked Payroll Clerk Debbie Goodson for her work on this.

Public Works Director Michael Kramer provided an update on the airport courtesy car. He said there had been an option of donating a used vehicle to the Vintage Aircraft Association (VAA) which had been discussed at a meeting the previous week. He said the VAA did not wish to move forward with this due to insurance and liability concerns. Councilmember Moore stated a courtesy car was a burden. He said he had spoken with Airport Advisory Board President Dave Gleiter about starting a Friends of the Gardner Airport group that would be run on donations and could take care of that item.

Business and Economic Director Larry Powell stated staff was expecting the first commemorative street sign application soon. He said it would be for Meadowbrook Circle and would come from the American Legion.

Parks and Recreation Director Jason Bruce stated baseball would be starting over the upcoming weekend and Gardner would be hosting its first tournament of the season.

Mayor Shute thanked Utilities Director Gonzalo Garcia for his work on utility rates.

Mayor Shute stated he would like to provide clarification based on information from the City Clerk and City Attorney that there would be no vote after the upcoming executive session.

Councilmember Gregorcyk stated he would like to introduce a point of order as the Council had not yet had the opportunity to give Council updates.

Councilmember Baldwin thanked everyone who had participated in the City Administrator interviews. He said he had selected Kacy Dale for this.

Councilmember Melton asked if there were any plans for the excess money in the Utility Fund. Interim City Administrator Laura Gourley stated this could be a very long discussion. Mayor Shute stated it would be good for staff to bring recommendations as even though rates had been reduced, funds were still accumulating. Ms. Gourley stated the accumulations were from 2018 and rate reductions were not scheduled until 2020. Mayor Shute stated he would like to explore using a PILOT adjustment to fund infrastructure east of I-35.

Councilmember Melton stated he would like to see a breakdown of a refund for a Power Cost Adjustment. Mr. Wolff stated there had been savings that were passed on automatically. Mayor Shute stated it was not equitable to give a citizen that had lived in Gardner for three years the same refund as a citizen who had lived in Gardner for fifteen years. Councilmember Gregorcyk suggested holding a worksession to discuss the item further. Mayor Shute stated there was \$20 million in investment needed on the other side of I-35 with no way to pay for it.

Councilmember Melton stated training for the Planning Commission was overdue and that he felt many commissioners did not know their roles. He said serious changes were needed quickly. Mayor Shute stated there was an opportunity for training with the upcoming consolidation of the Planning Commission and the Board of Zoning Appeals.

Councilmember Melton thanked USD 231 and the Gardner Police Department for recent active shooter training he had participated in.

Councilmember Moore thanked the citizens that had taken part in the City Administrator screening committee including Tim Miller, Kacy Dale, and Heath Freeman. He said it had been a very cross-functional committee and that resumes, in-person, and skype interviews had been considered as part of a very comprehensive and objective process. He said the Councilmembers not included in the initial process had been well represented. He said he was embarrassed by the behavior of the Planning Commission.

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Councilmember Winters stated he had received an email about potholes and curbs. Mr. Kramer stated he had contacted the citizen but had not heard back.

Councilmember Moore stated staff had done a great job throughout the Planning Commission ordeal. He said they had stuck with facts and brought forth more than enough information for the Council to make a decision that evening. Mayor Shute stated planning staff had been amazing throughout the process.

Mayor Shute stated he City Administrator position had been advertised by the League of Kansas Municipalities (LKM) at both a statewide and national level. He said LKM had screened and ranked applicants using objective measurements, with 160 points possible. He said both of the highest scoring candidates had been interviewed. He said there had been only four (4) female applicants, all ranked not qualified by LKM. He said the Human Resources Manager, Interim City Administrator, and himself had gone through the ranked candidates and selected nine to initially interview, plus the internal candidate. He said three of these had been removed from consideration based on research done by the HR Director. He said it had been an exhaustive and rigorous process.

Mayor Shute stated there would be no action taken following Executive Session. He said the Governing Body would reach consensus and negotiations would take place. He said the appointment of the new City Administrator and the approval of the contract would occur at the same meeting.

**EXECUTIVE SESSION**

1. Consider entering into executive session to discuss matters related to non-elected personnel

Councilmember Moore made a motion to recess into executive session pursuant to K.S.A. 75-4319 (b) (1), to discuss personnel matters related to non-elected personnel beginning at 09:25 p.m.; and returning to regular session at 09:45 p.m.

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Melton made a motion to resume regular session at 09:45 p.m.;

Councilmember Moore Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Gregorcyk made a motion to recess into executive session pursuant to K.S.A. 75-4319 (b) (1), to discuss personnel matters related to non-elected personnel beginning at 09:47 p.m.; and returning to regular session at 09:57 p.m.

Councilmember Moore Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Melton made a motion to resume regular session at 09:57 p.m.;

Councilmember Moore Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Melton made a motion to recess into executive session pursuant to K.S.A. 75-4319 (b) (1), to discuss personnel matters related to non-elected personnel beginning at 09:59 p.m.; and returning to regular session at 10:09 p.m.

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Councilmember Moore Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Moore made a motion to resume regular session at 10:09 p.m.;

Councilmember Melton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**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 10:10 p.m.

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City Clerk