

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

Page No. 2019 - 38

April 1, 2019

The City Council of the City of Gardner, Kansas met in regular session on April 1, 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, 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; Parks and Recreation Director Jason Bruce; Finance Director Matthew Wolff; City Clerk Amy Nasta; and City Attorney Ryan Denk. Others present included those listed on the attached sign-in sheet and others who did not sign in. Councilmember Rich Melton was absent.

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.

PUBLIC COMMENTS

Walt Hudsel of 15645 Gardner East Road stated he owns a lot on Gardner Lake that is one hundred and fifty feet long that he would like to sell part of to a neighbor so that both parties can have property on the lake. He said he would like to propose that the City Council issue a dock permit and a construction permit once the property is split and allow the new owner to build a new dock. He said this should not be considered a second tier lot as it has direct access to Gardner Lake without crossing any other properties.

Bill Pflumm of 15635 Gardner East Road stated the lot mentioned by Mr. Hudsel has direct lake access. He said he had spoken with Johnson County Development and they were willing to split the lot without issues. He said he would like to install a nice dock that adheres to the parameters specified by the City.

Larry Desmarteau of 15510 Lake Road 10 stated he is the President of the Gardner Lake Association (GLA). He said the goal of the GLA is to enhance and help to beautify the lake. He said old docks may fall in, tear off, or float away. He said the GLA will soon be cutting trees off the dam, as they may tear up the dam, and is willing to do whatever they can to enhance and beautify the lake. He said the GLA would like to have a relationship with the City Council. He said new people are moving to the lake, buying homes, building nice homes, and helping to beautify the area. He said he hopes to resolve past issues and is willing to have one-on-one discussions with anyone. He asked that people visit the website for the lake to submit any pictures they may have and to view upcoming events.

Chuck Lawrence of 15500 Lake Road 4 stated he is the Vice President of the GLA. He said the GLA wants a nice lake that is cleaned up. He said a good start to this would be allowing second tier docks to obtain construction permits so they can be cleaned up.

CONSENT AGENDA

- 1. Standing approval of the minutes as written for the regular meeting on March 18, 2019**
- 2. Standing approval of City expenditures prepared March 15, 2019, in the amount of \$309,311.09; March 21, 2019, in the amount of \$855,276.10; March 22, 2019 in the amount of \$1,995.80**
- 3. Consider authorizing the Mayor to enter into the Eastern Kansas Multi-County Task Force Reciprocal Investigation Inter-Governmental Local Agreement**
- 4. Consider a one year renewal of a service contract with Asplundh Tree Expert Company for the Electric Line Tree Trimming Program**
- 5. Consider a recommendation to rebuild a pump as part of the High Service #3 Pump Rebuild Project, CIP #WA1904 (UAC vote: 4-0)**

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

Page No. 2019 - 39
April 1, 2019

- 6. Consider authorizing the City Administrator to execute an agreement with Johnson County to administer the Stormwater BMP Cost-Share Program in the City of Gardner**
- 7. Consider the appointment of Gary Williams to the Utility Advisory Commission**
- 8. Consider the appointment of Barbara Coleman to the Utility Advisory Commission**

Councilmember Gregorcyk asked to remove item 4 from the Consent Agenda

Councilmember Moore made a motion to approve the Consent Agenda items 1-3 and 5-8

Councilmember Winters Seconded.

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

Discussion of Consent Agenda Item 4

Councilmember Gregorcyk stated he is in support of the contract as it has been in place for many years. He asked if this was still a viable program for keeping trees out of the electric lines. Utilities Director Gonzalo Garcia stated that each year different sections of the line were done to ensure trees were not interfering with the lines. Mr. Garcia said previous large charges had been caused by the need to catch up with maintenance that had not been conducted in years past, but the program was now focused on prevention.

Councilmember Gregorcyk made a motion to approve the Consent Agenda item 4.

Councilmember Baldwin Seconded.

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

COMMITTEE RECOMMENDATIONS

- 1. Consider awarding an Engineering Services contract to the Joint Venture Group of Burns & McDonnell and CAS Constructors, LLC., for Preliminary Design of the Hillsdale Water Treatment Plant Expansion Project, CIP Project #WA2002**

Utilities Director Gonzalo Garcia provided a review of the events that had led to this contract. He said in July, 2017, there had been a presentation of the water master plan during which a connection with Water One was recommended. He said in December of 2017 it was learned that the water chemistry of the City of Gardner was not compatible with the water chemistry for Water One and a bench corrosion test would be needed at a cost of \$100,000, at which time he was directed to look into other alternatives. He said Larkin Lamp Rynearson had provided a water and wastewater presentation in July of 2018 during which the need for a Hillsdale expansion by 2021 was identified. He said a worksession had been held in November of 2018 following the summer's water restrictions, and the Council had been presented with alternatives for a 2MGD plant and a 6MGD plant. He said staff had been directed to move forward with the 2MGD plant.

Mr. Garcia stated a Request for Qualifications had been advertised on January 4, 2019, with three companies responding. He said the selection committee had interviewed all three companies and had unanimously chosen the Joint Venture Group of Burns & McDonnell and CAS Constructors, LLC., as they were a local company with experience, in-depth knowledge of the local labor market, and had offered an accelerated schedule to deliver 1MGD by 2020. He said this was the first phase of a two phase project, and that Water 7 had retained Larkin Lamp Rynearson to evaluate the impact of taking part in the project.

Councilmember Winters asked if the 2MGD plant would be upgradable. Mr. Garcia stated it would be upgradable to 6MGD. Councilmember Winters asked what the potential involvement of Water 7 would be. Mr. Garcia stated staff had met with Water 7 late last year to ask if they would like to be involved in the project or would like to purchase water wholesale. Councilmember Winters asked if Water 7's decision would affect the amount of MGD needed. Mr. Garcia stated another 1 MGD would likely be needed. Councilmember Winters asked if the City would

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

Page No. 2019 - 40
April 1, 2019

need to move directly to 4MGD at that point. Mr. Garcia stated that if Water 7 were involved, the City should move directly to 4MGD. He said this decision would need to be made within 30-60 days and that Water 7 was aware of the deadline.

Mayor Shute stated he had spoken with Water 7 and they were very interested in having a partnership and doing cost sharing. He said Water 7 was currently conducting a cost benefit analysis. He said from a standpoint of leveraging economies of scale for water capacity it made sense for Water 7 and Miami County to be involved in the project. He said this would be advantageous to Gardner in terms of keeping water rates low. Councilmember Gregorcyk stated higher capacity will help to prevent shortages in the future.

Councilmember Gregorcyk made a motion to authorize the City Administrator to execute an Engineering Services contract with the Joint Venture Group of Burns & McDonnell and CAS Constructors, LLC., for the preliminary design of the Hillsdale Water Treatment Plant Expansion Project, CIP Project #WA2002, in the amount of \$312,582.00

Councilmember Winters Seconded.

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

OLD BUSINESS

NEW BUSINESS

1. Consider adopting a resolution approving the execution of a funding agreement related to a proposed economic development project located within the city (Plaza South Project)

Councilmember Moore made a motion to adopt Resolution No. 2015, a resolution of the City of Gardner, Kansas, approving the execution of a funding agreement related to a proposed economic development project located within the city (Plaza South Project)

Councilmember Gregorcyk Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2015

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

2. Consider adopting an ordinance adopting a revised City of Gardner base salary structure Fiscal Year 2019-2020 (per biennial budget)

Human Resources Manager Alan Abramovitz discussed the benefits of career ladders and stated the City would like to add a Police Officer 2 position. He said other nearby cities such as Lenexa and Shawnee have Police Officer 2 positions, while Lenexa and Merriam have a similar position called Master Police Officer. He said in order to earn the Police Office 2 designation, an officer would need to have a minimum of five (5) years' experience and a minimum performance rating of "Exceptional" on his/her most recent annual performance evaluation. He said the title change would remain in the same paygrade, but would receive a five percent pay increase.

Councilmember Moore asked why the title of Police Officer 2 had been chosen rather than Master Police Officer. Police Chief James Pruetting stated a Master Police Officer sometimes has additional responsibilities and he did not wish to confuse the terms. Councilmember Gregorcyk asked how many current officers this would impact. Chief Pruetting stated 29 officers would be eligible based on length of service, but that an "Exceptional" rating would still need to be obtained. Mayor Shute stated this will help to retain good officers.

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

Page No. 2019 - 41
April 1, 2019

Councilmember Moore made a motion to adopt Ordinance No. 2611, an ordinance adopting a revised City of Gardner base salary structure Fiscal Year 2019-2020

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2611

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

3. Consider adopting a Resolution revising the Personnel Policy Manual, 2018 Edition

Human Resources Manager Alan Abramovitz stated that employees accrue more sick leave than vacation until reaching 4-5 years of employment, encouraging employees to utilize sick leave rather than vacation. He said the City's vacation leave is also inadequate compared to other area municipalities, especially Johnson County and Olathe. He said staff recommends changing accruals in five year brackets in order to become more competitive and to aid with retention and recruitment. Mr. Abramovitz stated staff was also recommending increasing the maximum accrual of comp time from 24 hours to 48 hours as the current accrual rate is below that of other area municipalities.

Mr. Abramovitz stated career ladders for utilities were based on earning state certifications. He said there are currently four levels of certification and that these levels are cumulative. He said each time an employee attains a new level of certification, the employee will receive a five percent pay increase within his or her current pay grade. He said the introduction of these career ladders will help with recruitment, motivation, and retention.

Councilmember Winters asked how the changes in classification for water and wastewater would be determined. Mr. Abramovitz stated there would not be a title change, and that when an employee obtained the next level of certification the pay increase would be processed providing his or her work was satisfactory. He said obtaining the next level of certification is not automatic or easy and requires a great deal of time and study. He said this is an element of continuing education managed by the state.

Councilmember Moore asked if there was any consideration given to PTO rather than separate sick leave and vacation. Mr. Abramovitz stated this was considered and was a system the City may switch to in the future. He said PTO costs the City more as all of the leave is in one bucket so employees get more of it when leaving. He said this is a major change for employees and that only one City in the metro area utilizes this system. Mayor Shute stated PTO also accrues holiday pay up front, which would need to be paid out when employees leave.

Councilmember Gregorcyk asked if employees currently had to use their vacation pay or lose it. Interim City Administrator Laura Gourley stated employees can have up to 1.5 times their annual accrual rate. Mayor Shute stated employees also have an option to donate their time.

City Attorney Denk stated an additional issue for municipalities to consider for PTO that is different from the private sector is comp time, as this could result in employees having a large bank of PTO and a bank of comp time.

Councilmember Baldwin stated he did not see a comparison of Gardner's sick leave against the sick leave of other municipalities. Ms. Gourley stated the sick leave accrual rate is 3.692 hours per pay period. Attorney Denk stated approximately one day per month is typical for municipalities.

Councilmember Baldwin asked why utility workers did not have to have an "exceptional" review in order to be eligible for a pay increase while Police Officers did. Mr. Abramovitz stated a review of at least "Satisfactory" was necessary. He said for Police Officers, there was no burden of passing a test. Mayor Shute stated utility workers needed to demonstrate competency. Councilmember Baldwin stated he was looking at this as a bonus and as demonstrated additional improvement. Mayor Shute stated adding the need to get an "exceptional" review in addition to

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

Page No. 2019 - 42
April 1, 2019

certification was a high bar versus other municipalities. Councilmember Baldwin stated employees were already expected to obtain these certifications. Mr. Abramovitz stated there was no requirement to obtain these certifications. Councilmember Winters stated he felt this was fair as employees were being asked to increase competencies.

Councilmember Baldwin asked if the City should consider adding additional bonuses if he employees passed the certification and also earned an "exemplary" review. Mr. Abramovitz stated the change for Police Officers was a special case. He said adding bonuses for other departments would necessitate looking into this for other employees as well. He said the best way to handle this was with merit increases during the budget process. Mayor Shute stated Police Officers would be getting a title as well. Mr. Abramovitz said water and wastewater employees would keep the same titles.

Councilmember Gregorcyk asked if the City should consider a tenure bonus program as a means of further bridging the recruiting and retention gap. Mayor Shute stated the City already has a tenure bonus program. Councilmember Gregorcyk stated the program is not very robust. Ms. Gourley stated the bonus is currently \$1 per month of tenure, with a floor of \$50.

Councilmember Winters made a motion to adopt Resolution No. 2016, a resolution providing for the adoption of a revision to sections 5-104.1, 5-106.9, and 6-106.1 of the Personnel Policies and Procedures, 2018 Edition, for the City of Gardner, Kansas

Councilmember Moore Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2016

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

4. Initiate action to change the Land Development Code allowing for the designation of the Planning Commission as the City's Board of Zoning Appeals

Business and Economic Development Director Larry Powell stated this was a process that started last fall. He said this would allow the text amendment to go to the Planning Commission in April and come back to the Council in May. He said three Planning Commission members have terms expiring at the end of May, 2019, and three Board of Zoning Appeals (BZA) members have terms expiring at the end of July. He said the process needed to be initiated in order to keep on track to have a full Planning Commission after the end of May.

Mayor Shute stated this action is to take the existing set of Planning Commission members (other than those with expiring terms) and automatically place them on the new commission. He said the normal process would be utilized to fill the remaining positions. Councilmember Gregorcyk asked for clarification that this was not to eliminate the current members who had been recently appointed. Mayor Shute stated this was correct and had been discussed for some time as a means of streamlining the process. He said there would be no personnel changes on the planning commission aside from those with expiring terms.

Councilmember Baldwin asked why the three members of the BZA could not be utilized to fill the three Planning Commission positions until the end of July. Mr. Powell stated the BZA members had not indicated an interest in doing this. Councilmember Baldwin asked what was being streamlined as BZA meetings were routinely cancelled. Mr. Powell stated the first Tuesday of the month was scheduled for the Council Chambers, and this could then be opened for the City as a whole. He said this would also allow all business to take place on one night by adjourning, and then starting the BZA meeting. He said separate agendas and minutes would be used.

Mayor Shute stated the BZA's role by statute was very limited. He said the BZA was only allowed to consider variances on items that do not fit the code while the Planning Commission could only discuss items inside the scope

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

Page No. 2019 - 43
April 1, 2019

of the code. He said there is no conflict of interest. Mr. Powell stated that state law requires two separate committees but allows them to have the same members. Attorney Denk stated the fact that the legislature allows this shows there is no conflict of interest.

Councilmember Moore made a motion to initiate a text amendment to the Land Development Code to change the number of members who serve on the Board of Zoning Appeals

Councilmember Winters Seconded.

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

COUNCIL UPDATES

Police Chief James Pruetting stated that staff had looked into the NRA's Eddie Eagle program at Councilmember Baldwin's request. He said the City had applied for and received a grant for the program and had purchased the necessary costume and materials. He said Officer Adam Taylor had returned after eighteen months of deployment.

Utilities Director Gonzalo Garcia stated Dave Francq had retired the previous Friday after 42 years of service. He thanked him for his knowledge, experience, and expertise. Mayor Shute said he wished Mr. Francq well.

Business and Economic Director Larry Powell stated the parklet was scheduled to return to the parking lot behind City Hall on April 5th. He said the City has received numerous calls about potholes on private property and staff was reviewing that calls and would be talking to property owners to resolve the issues.

Public Works Director Michael Kramer stated the Council had received information regarding the Gardner Lake in the Friday Minute Memo and a discussion regarding the lake had been held at the March 4, 2019 City Council meeting, at which time the Council had provided direction to leave the tier 2 docks alone. He said the GLA would like to have major repairs and replacements of tier 2 docks allowed, as well as the addition of a limited number of new tier 2 docks. He asked if the Governing Body had any additional direction after hearing the public comments earlier in the meeting.

Mayor Shute stated he had no problem allowing for the beautification and repair of legacy docks, and did not think building new docks was a problem so long as the Council was amenable. Councilmember Baldwin stated he would like to know the history of why tier 2 docks should be removed instead of repaired. Mr. Kramer stated he believed the decision had been to limit the total number of docks and to ensure the only access to docks was not through the private property of others. Councilmember Baldwin asked how many docks were too many and if there were specifications on the distance between docks. Mr. Kramer stated he would look into this. Mayor Shute asked if this could be looked at from the standpoint of the permitting process. Mr. Kramer stated that he wished to clarify that the regulations for tier 2 docks are included in the Gardner Municipal Code, meaning a code revision would be needed for any changes.

Councilmember Gregorcyk asked how many docks were failing at the present time. Mr. Kramer stated he was unsure, but there were currently 17-20 tier 2 docks, as well as some additional docks that were likely tier 2. He said staff would be conducting inspections over the summer. Councilmember Gregorcyk stated eliminating failing docks would open up space that could be considered during the permitting process. Mayor Shute stated those with failing docks should be given the opportunity to fix them. Councilmember Gregorcyk stated there should be an option to meet the requirements or remove the dock.

Councilmember Moore stated that his understanding was that tier 2 docks were for land without adjacent property. Mr. Kramer stated the property that had been discussed earlier had not been considered buildable for a home, meaning any docks attached would be tier 2 because the resident could not live on the water. Councilmember Moore stated he thought access was the criteria. Mr. Kramer stated this is how the criteria had historically been applied. Mayor Shute stated he believed this was pushing the definition as the person who owns the dock lives directly across the road. Mr. Kramer stated if the only criteria was ownership it was possible a

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

Page No. 2019 - 44
April 1, 2019

dock could be placed on a very small piece of property and this concern was avoided with the application of the residency definition.

Mayor Shute stated the development code could be worded to allow for docks with property of a certain size. Councilmember Gregorcyk asked what the current frontage ratio to dock size was. Mr. Kramer stated he would look into this but that 30x20 was the dock size generally allowed, with sizes of up to 30x30 allowed.

Councilmember Winters asked if the GLA was set up in a manner that would allow them to monitor the docks. Mr. Kramer stated he did not believe they had HOA authority.

Councilmember Baldwin stated he would like to look at the issue from a permitting standpoint. He said if roads were removed from consideration the property in question would be a tier 1 dock. He said he would like to know the history and the detail of what is too many docks. Mayor Shute said he would like to take out some of the subjective criteria and get some options.

Interim City Administrator Laura Gourley asked if there was consensus from the Council to consider the property in question, discussed by Mr. Hudsel and Mr. Pflumm during public comments, as a tier 1 dock.

A majority of the Council provided consensus, with Councilmembers Gregorcyk, Moore, and Winters providing consensus.

Mayor Shute asked staff to come up with a specific objective policy regarding lake oversaturation moving forward

Mr. Kramer stated there had been a meeting with KDOT on March 31 regarding Gardner Road. He said no issues had been identified that couldn't be resolved during the final design. He said the final design would go to KDOT for review in September, bid advertisements would take place in November, and bids would be considered in December. He said construction would begin in spring of 2020. Mayor Shute asked if the second phase would begin in 2021. Mr. Kramer stated he believed phase 2 would begin in 2022 or 2023. Mayor Shute stated it was possible KDOT would have the money to push this up.

Mr. Kramer provided an update on the sewer at the Gardner Municipal Airport. He said he was hopeful that airspace clearance would be received by the FAA soon. He said the signed plans and calculations for the sewer had been sent to KDHE for review. He said the City had received a grant from KDOT for the sewer extension. He said the grant would be for 90% of the project.

Councilmember Moore stated there was a fly-in at the Gardner Municipal Airport on the first Saturday of every month.

Councilmember Winters stated he was sad to see David Francq retire and that he would be missed. Councilmembers Gregorcyk and Baldwin agreed, as did Mayor Shute.

Councilmember Baldwin thanked Chief Pruetting for his pursuit of the Eddie Eagle program.

EXECUTIVE SESSION

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

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 08:40 p.m.; and returning to regular session at 08:55 p.m.

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 08:55 p.m.;

Councilmember Winters Seconded.

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

Page No. 2019 - 45
April 1, 2019

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

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 08:56 p.m.; and returning to regular session at 09:11 p.m.

Councilmember Baldwin 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 09:12 p.m.;

Councilmember Baldwin Seconded.

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

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 09:13 p.m.; and returning to regular session at 09:28 p.m.

Councilmember Baldwin 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 09:28p.m.;

Councilmember Winters 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 Moore and seconded by Councilmember Baldwin the meeting adjourned at 09:29 p.m.

City Clerk