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**OF THE GOVERNING BODY
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The City Council of the City of Gardner, Kansas met in regular session on June 3, 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, and Todd Winters. City staff present were City Administrator James Pruetting; Business & Economic Development Director Larry Powell; Utilities Director Gonzalo Garcia; Public Works Director Michael Kramer; Finance Director Matthew Wolff; Parks and Recreation Director Jason Bruce; Interim Police Chief James Belcher; Interim City Clerk Sharon Rose; and City Attorney Ryan Denk. Others present included those listed on the attached sign-in sheet and others who did not sign in. Councilmember Lee Moore 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 HEARINGS

1. Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale of cereal malt beverages within 200 feet of a school, church or library during the Festival on the Trails event to be held June 8, 2019.

Councilmember Melton made a motion to open a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale of cereal malt beverages within 200 feet of a school, church or library during the Festival on the Trails event to be held June 8, 2019.

Councilmember Baldwin Seconded.

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

Councilmember Melton made a motion to close the public hearing.

Councilmember Baldwin Seconded.

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

2. Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale of domestic table wine within 200 feet of a school, church or library during the weekly Gardner Farmers Markets events to be held on Thursdays, 4pm-7pm, from June 6, 2019 through September 12, 2019.

Councilmember Melton made a motion to open a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale of cereal malt beverages within 200 feet of a school, church or library during the Festival on the Trails event to be held June 8, 2019.

Councilmember Winters Seconded.

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

Councilmember Gregorcyk made a motion to close the public hearing.

Councilmember Melton Seconded.

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

PUBLIC COMMENTS

Adrianna Meder, 32604 W. 171st Ct, spoke regarding the consolidation of the Planning Commission and BZA. After listening the meetings and reading comments, that there aren't so many meetings and they might have trouble finding volunteers, but the reason there is a Board of Zoning Appeals in place is checks and balances. If there are no meetings, things are moving smoothly. Why would you want to have the same group of individuals who might see an item and then have an appeal, they're going to see it again. That doesn't seem fair to the applicant who might have an issue with a recommendation. You want citizen involvement, this is an opportunity for a citizen who may not be able to meet often.

CONSENT AGENDA

- 1. Standing approval of the minutes as written for the regular meeting on May 20, 2019**
- 2. Standing approval of City expenditures prepared May 17, 2019, in the amount of \$550,425.87; May 24, 2019, in the amount of \$601,748.70.**
- 3. Consider authorizing the City Administrator to purchase one (1) 2019 Ford F-250 4X4 Crew Cab truck from Olathe Ford**
- 4. Consider authorizing the City Administrator to purchase one (1) 2019 Ford F 250 4x4 truck from Olathe Ford**
- 5. Consider authorizing the approval of an Agreement with Treanor Architects for professional services on the City Hall Needs Assessment and Existing Police Station decommissioning**

Councilmember Winters asked to remove item 5 from the Consent Agenda

Councilmember Gregorcyk asked to remove items 3 and 4 from the Consent Agenda

Councilmember Melton made a motion to approve Consent Agenda items 1-2

Councilmember Baldwin Seconded.

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

Discussion of Consent Agenda Items 3 and 4

Councilmember Gregorcyk read the packet, but wanted to confirm that the general fund is not paying for vehicles and they will come out of the utility funds. Utilities Director Gonzalo Garcia confirmed.

Councilmember Gregorcyk made a motion to approve Consent Agenda item 3

Councilmember Melton Seconded.

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

Councilmember Gregorcyk made a motion to approve Consent Agenda item 4

Councilmember Melton Seconded.

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

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Discussion of Consent Agenda Item 5

Councilman Winters read through the item, and feels there are some items that can be done internally. There are issues with the police station that would need a third party, but is not convinced about the full study. Public Works Director Michael Kramer asked if the concern is with the space needs study or the evaluation of the police station. Winters responded everything but the \$5,400 for environmental. Director Kramer said the space needs study will involve staff to a great degree. To put a plan together for space at City Hall, they will bring in structural engineers, mechanical engineers, ect to see how to reconfigure spaces appropriately for the future needs. They will look at our deferred maintenance and the roof and mechanical systems to see if we should upgrade our control systems. This is something staff has looked at in the past and believes that changing the controls on the mechanical systems, we can, in the long run, pay that back with the energy savings. The space needs study is about \$24,000 which is what we spent for PD in 2015. Treanor said it's about 200 hours with 10 employees. Winters asked if City Hall is having space issues. Kramer responded there are a lot of issues and the space needs study itself is also looking at safety items: bullet proof glass for the counter and windows, exterior lighting. We do have projected increase in staff for Parks, Engineering, and Planning. Currently, people who handle sensitive information, like Human Resources, don't have office space. Confidential conversations can be overheard. The space needs will provide short term and long term options with improving the building. Winters asked isn't this something we can do internally? Staff has already pointed out some of the safety issues and deficiencies. Kramer said Treanor will also provide cost estimates. Staff can review the issues, but staff are not trained architects, or space needs or safety consultants, or mechanical professionals. There are a lot of different disciplines. Winters asked about the remaining balance for the police building. Kramer explained that Treanor has a particular expertise in writing plans and specifications for demolition, taking in the environmental issue. Councilmember Melton said we have to do that because of the environmental concerns, like the asbestos disposal. Winters understood the amount for that, but was questioning the rest of the agreement. Kramer explained it's a combination of the knowledge, the expertise, and the equipment that required, along with just the time involved, we don't have the resources internally.

Councilmember Melton made a motion to approve Consent Agenda item 5

Councilmember Winters Seconded.

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

COMMITTEE RECOMMENDATIONS

OLD BUSINESS

NEW BUSINESS

- 1. Consider a request for a Waiver of the Distance Limitation and a "General Retailer" Special Event permit to allow for the sale of cereal malt beverages for consumption within 200 feet of a school, church, or library during the Festival on the Trails event to be held June 8, 2019**

Interim City Clerk Sharon Rose stated that both New Business Items 1 and 2 are housekeeping items in relation to the public hearings. Councilmember Winters stated he would abstain from voting on New Business Item 1, as he is a member of the Festival on the Trails Association.

Councilmember Melton made a motion to approve a request for a Waiver of the Distance Limitation and approve a special event permit to allow for the sale of cereal malt beverages within 200 feet of a school, church or library during the Festival on the Trails event to be held June 8, 2019.

Councilmember Baldwin seconded.

With a majority of the Councilmembers voting in favor of the motion, the motion carried. (Baldwin, Gregorcyk, Melton – Yes; Winters – Abstain; Moore – Absent)

2. Consider a request for a Waiver of the Distance Limitation to allow for the sale of domestic table wine within 200 feet of a school, church or library during the weekly Gardner Farmers Markets events to be held on Thursdays, 4pm-7pm, from June 6, 2019 through September 12, 2019.

Councilmember Gregorcyk stated we have a permitting process for this. Is this similar to what a liquor or beer store would get, or is it a short time festival type of permit? Interim City Clerk Sharon Rose explained that this is under the State of Kansas farm winery license. The vendor is only requesting the waiver of distance limitation so they can sell sealed bottles of wine at the farmers market. There will be no open bottles, only sealed.

Councilmember Gregorcyk made a motion to approve a request for a Waiver of the Distance Limitation to allow for the sale of domestic table wine within 200 feet of a school, church or library during the weekly Gardner Farmers Markets events to be held on Thursdays, 4pm-7pm, from June 6, 2019 through September 12, 2019

Councilmember Melton Seconded.

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

3. Consider adopting an ordinance designating the city's Planning Commission as the city's Board of Zoning Appeals, and adopting revisions to the Land Development Code to provide for such designation

Larry Powell – The review of changing Planning Commission and Board of Zoning Appeals began last fall. Staff reviewed the Land Development Code and by-laws, and the city attorney reviewed state laws. Staff found that this merge was possible. Staff took the recommendation to the Planning Commission, and they agreed they would stand in favor of standing both committees structures. The current BZA is a five-member board, but only has three members currently, due to the death of one member and another's term of office is ending next month. The creation of this will dissolve the BZA and create a new, single board which will still be both a Board of Zoning Appeals and a Planning Commission with dual membership serving in that capacity. The attached ordinance allows for the creation of that by council's passing and then printing in the newspaper. PC and they are in favor of merging. No terms will be shortened. The creation of this will dissolve the boards, and the attached ordinance combines the two.

Councilmember Winters – we've talked about this in the past about having the appeals and the board be the same people, can you reiterate what we talked about last time? I know this is having the BZA and Planning Commission being the same body. Director Powell stated even though the same individuals would be serving on both boards, the boards will continue to act in separate functions with their own meetings. If they had an item come for their meeting, they would start a meeting, complete that section and adjourn that meeting before they would start the next meeting. They could be set up the same way as they are now and have a standard time to meet. Any time there is not an item on the agenda, staff would still notify the public that there would not be a meeting of the BZA or the Planning Commission, whichever one, or both of that evening. The policies that we've operated under for both would remain as they are as function, but they would be combined to have the same people serve on those boards. There are fewer people applying for these opportunities. This is an effort to keep Planning Commission and BZA fully staffed. Councilmember Winters asked if other cities do this as well. Director Powell stated that several other cities do this, and the state statutes allow for this.

City Attorney Ryan Denk – Addressing the comment made during public comment, the BZA and Planning Commission have different jurisdictions. The BZA would not review a decision of the Planning Commission.

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The BZA is set up to review variances from the city's zoning ordinance. The way the ordinance has been restructured, there are fewer of those because the city allows for deviations now under new zoning changes so long as staff is satisfied that the deviations are compensated in other manners. This is more common among municipalities, they don't have strict zoning codes where people have to come forward with variances. They do have zoned districts that allow for deviations like what the city has done, which has lent itself to the obsolescence of BZA. There is no conflict of interest in serving on both.

Mayor Shute appreciated the clarification. In looking at the planned districts within the Municipal Code, the administrative variance is there a possibility of issues as we've had in the past, like the old Perkins flag pole situation? This was an issue where there was a conflict with the county regarding the Airport Commission. Even in that situation, we did have a BZA meeting and talked about granting an exception, but were also given advice from the county airport board not to go forward with that. City Attorney Denk said this is a little different. There is an overlay district for the runway approach slope with New Century, and there are height restrictions associated. Mayor Shute stated in that case, the BZA was limited in what it could do from that perspective

Councilmember Melton made a motion to adopt Ordinance 2617 designating the city's Planning Commission as the city's Board of Zoning Appeals and adopting revisions to the Land Development Code to provide such designation

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2617

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

4. Consider a recommendation to authorize a contract for a Solar Feasibility Study

Director Garcia - Several solar energy developers have approached the city and asked about our interest in solar. Three firms have recently asked, and one just installed a facility in Baldwin. If you reviewed information, there are many options from a fixed tilt to a single axis to a dual axis. And there are different solar panels, from monocrystalline, polycrystalline, thin film. The different projects are different technologies, and cannot be compared. It's difficult to come up with a cost to put a solar facility in the city. Director Garcia recommends a feasibility study to get firm numbers regarding the different types of solar. The study will be between \$11,000 - \$15,000.

Councilmember Melton didn't see in the packet, will this cover anything residential, like if I want to volunteer my roof for the study and put up panels? Garcia responded no, residential is different. The city can get a residential study. Melton stated it would be beneficial to allow citizens to put panels on their roofs and get paid back for it. Councilmember Baldwin said they already do. Garcia stated it is not net metering precise but they get about \$65. Melton stated a house he sold last year wasn't getting one for one. Baldwin said that would be something that we'd have to change with rate structures. Shute said this was the industrial solar that had been discussed before, which is basically having solely owned by the city that would provide supplemental power above our diesel capacity. Garcia stated for reference 1 megawatt solar farm would take 5 acres. If it's 5 megawatts, its 25 acres, so it's large scale. Melton suggested using the existing roof lines. Shute stated that rooftop solar is something he'd like to see more of in the community, but the market has to bear it. Gregorcyk said the city would need to subsidize or spur it. Shute said not subsidy, but definitely facilitation in some way that's not monetary. Offer a

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greater incentive than that generation of power back to the grid. Melton said if everyone who is buying is investing, it's not the city as a whole, it's the people who want it. Shute said we can discuss industrial solar and see where that takes us from the standpoint of grid security, but can also talk about, at some point in the future, the rooftop solar solution. It's not part of the agenda tonight.

Councilmember Winters asked, in general terms, what kind of payback period would we start to break even or save. Shute said that's what the study is for. Winters said in broad general, on average, is it ten years or 20 years. Garcia said the proposals received are based on PPAs and they are about 20 years. The city can buy the project after 7-9 years, but that's a rate of about \$45-\$50 per milliwatt hour. The city is buying it from the grid right now at an average of \$28-\$30. Shute said they know that renewable is going to be higher, and the city is required under state statute to have a portion of utilities coming from renewable sources. Baldwin states we do now. He said the main reason that this is of interest is because it does have a range, it could be down to \$20, or it could be \$80. We do have a piece of our pool of contracts that will roll off in five years. Garcia said that's the GRDA 2026 at 9 megawatts. Baldwin said when that rolls off, the city will have to replace it with something else. The decision needs to be made long before 6 years. Shute said it would be good if the city can self-perform that. Baldwin said it is something that can be replaced with this as a small piece because it's not a big piece of the city's portfolio.

Councilmember Gregorcyk said his concern is that the city has futures out there for the next 5-6 years, so we know those fixed costs. The study will come back showing there is an investment to be had based on our ratio. He said the city would have to have a battery back-up system in order to store this unless it's directly sending it to a source that using electricity provided by solar. Garcia said that's part of a micro-grid, so the solar energy produced is put into batteries and then it gets used at the peak hours or high demand hours. That will be additional to this. It's a fairly new technology. Gregorcyk said it's additional labor and more investment on the hardware side, i.e. the batteries. The batteries are large, depending on the storage capacity requirements.

Gregorcyk believes the feasibility study is not timely, the city should put this off a year or two. Part of this opinion is because the city has already spent \$146,000 on just studies. That's a lot of money wrapped up in studies. Some of it is important, because we are not content experts, but that's a lot of money wrapped up. This isn't counting the \$344,000 spent last year and the encumbrance of almost \$250,000. That's part of the reason to push the solar study out a year or two. Shute asked Finance Director Matthew Wolff how the budget is holding and is this study budgeted. Director Wolff said this wasn't budgeted, but it is in the electric fund and that fund has a large balance.

Shute said this came in under the City Administrator authority, but the reason it came before council was to have this discussion. He doesn't see harm in getting this done. If they wait two years, then they're two years closer to the deadline of having to replace the capacity, and a potential time crunch to get that replaced. They're trying to be proactive instead of reactive. Gregorcyk agrees with the proactive position, but thinks they can buy electricity generated by solar or wind to meet the criteria. Shute said there are markets out there. Gregorcyk said versus investing in a 2- acre farm. Winters asked if this would take the place of our existing power generation or is it additional. Baldwin said it could be an addition to our portfolio, but not replace our generators. That's more back-up for the power pool. We rarely run them. Most of our power comes from our portfolio. They lock in those long-term contracts to guarantee a good rate and then they have to buy on the market to subsidize the core load factor. Throughout the year, they go up and down. If it's a hot summer, people don't use their energy during the day, they come home and turn on the air conditioner and there's a huge spike. By law, the city has to have contracts that get them up to a percentage of that at all times. One, they can fix the load factor issue by diversifying usage of power with commercial business that uses power all the time. The generators would have to stay for the Midwest power pool. Garcia said the existing gas turbine units are good for the next ten years and then they'll need replaced. Baldwin said they'd be looking at 30-40 acres for solar and the batteries to keep up with that kind of power. It's not just a turn-it-on. It's an option to be considered, everything's got to be a piece of the puzzle. Melton asked what Baldwin's thought are on the study. Baldwin said he didn't want to spend more money on the study, but knowing how much volatility there is in trying to determine what to do with solar, if they

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don't have something to show them definitively what they could do and what it would be, then they are just guessing. At this time they are not in a time crunch and they can afford it, it's worth it to do it now versus a year or ten years when it costs more for the same information.

Melton said the biggest expense on this is buying 30-40 acres of land in this area. The solar power is going to be cheap compared to the cost of land and that's not getting any cheaper. Baldwin said it's possible they do the study to be told this doesn't make sense in our partnership. Melton said we would have to have our solar system nearby, not 30 miles away and then bring it here. Garcia said that would defeat the purpose of running solar. Melton has no problem with the study because it will tell them what they need to know or what they perceive. Shute said the study will show the range of feasibility because they don't know and are just guessing. Baldwin is glad to see that it's in the \$10,000-\$15,000 range and not much higher.

Councilmember Melton made a motion to authorize a contract for a Solar Feasibility Study.

Councilmember Baldwin Seconded.

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

COUNCIL UPDATES

Utilities Director Garcia - As we approach summer, water demand is going up. Does council want to see trends on a weekly basis on Friday minute memo? Mayor Shute said yes, that's a great idea. Councilmember Melton asked if there is a way to meter the mass filling station. Garcia said the bulk water station is metered.

Parks Director Bruce – In case anyone is contacted about mowing, they have a rotation for mowing. The brush hog areas are getting tall, but it's been wet. They don't want contractors' equipment or parks equipment to get stuck. They will address it when they can. At the pool, contractors were caulking seams and joints and were almost finished on Saturday, until severe weather moved in. They returned on Sunday and finished. Staff will start filling tomorrow. Two days to fill, then 2-3 days to balance chemicals. Hope to open by Saturday.

Public Works Director Kramer – As shared in the Friday minute memo, street crews are assisting in Leavenworth County. Staff was called in after the storms through the mutual aid agreement. Two staff members have been there since Wednesday with equipment. They helped clear road ways. This week they are helping with private driveways with Leavenworth County Public Works. Mayor Shute said private individuals from Gardner, different organizations, and fire department sent help as well. It's a tough circumstance with that much destruction. Please pass on thanks to the staff.

City Administrator Pruetting – In March of last year, staff changed the master resolution that created the citizen advisory committees. Since that time, we changed the way appointments and nominations are made. We've had number of vacancies across the board. Amy Nasta sent out reminders for nominations. Sharon Rose has been working with Amy and located all the current applications. The mayor is going to get interview team together to get those committees filled. The Airport Advisory Committee has only one member that was appointed and two others that stayed on and would like to stay, but there are three new applications for that committee. There are interviews to do to fill that committee. If staff can't get interested parties from council members assigned to fill those positions, they will revise the nomination for filling the spots. Pruetting will send emails reminding individual council members of the appointments they are asked to fill. In the resolution, there is no secondary option if a name is not provided by the council member assigned to fill that position. Mayor Shute said the council asked to have the power to make nominations. That power must be exercised. If it's not, they are creating a process that doesn't work, and it's not working right now. Councilmember Baldwin said they are at the next step, they are asking in meetings and social media and in person for the public to step up. Not that no one is nominating, but no

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one is approaching council members. Pruetting said one of the options discussed last year was for every council member to have the opportunity to turn in nominations and the mayor pick and then come back to the council to vote. That may be the best option since they aren't getting applications. Is there consensus from the council so that Pruetting can bring the change to the next meeting? Melton agrees, he had a problem filling a position for ADA because no one was interested. He may know several people interested in something else that he's not involved in. Shute said they may be running into someone that may want to serve on the airport committee, but it's that member's turn to nominate for airport. They need to get that person in the candidate pool so that whoever does have that term for airport can select that person from the pool. Shute senses that if it's not that council member's committee, then they just won't take care of it. Melton said he posts on his social media pages that he has an appointment on the ADA, but no one replies back. It's not that they reply and say they want something else, they just don't reply at all. All Melton knows is that he needs ADA, but maybe they want to do Parks, but they don't go to Melton and say that. They aren't reaching out anymore, even to say they want to do something different.

Shute said there's a critical situation on two committees, Airport and Utilities. Both of those need to be filled. He believes Baldwin is the ex officio on Utilities. Baldwin said there is no ex officio on Utilities, but he stays connected. Shute said the ex officios have the vested interest in making sure those committees are filled. They should find one or two people in their sphere of influence willing to apply for those positions. Shute said all of council should be looking for all of these committees, but should at least be taking care of the ones they know. He referred to finding applicants, not actually choosing someone. Melton said the problem is they don't know about them if they are only told to find someone for Parks or for ADA. They don't know about the whole list. Shute asked if Pruetting had a list of the positions that are open on each committee, he believes it was sent out about three months ago. Shute asks that the list be sent out again so that everyone will know exactly what positions are available. Winters asked if there is a list of current applicants as well. Shute asked for that list to be sent as well, including the open positions, the number of applicants for each position. Melton asked if they wanted Pruetting to start drafting the changes. Shute said if council agreed, it was his proposal that they bring forth recommendations and he would choose. Baldwin said they've always been able to. If he's choosing for Streets, and Randy suggests someone who'd like to be on the committee, it's doable.

City Attorney Denk asked if there will be a time frame for bringing forth appointees. Shute believes it's codified in the ordinance that when someone applies, the applicant stays in the pool until they withdraw or their qualifications change, so they shouldn't need a window of time. Baldwin asked about opening the process when people apply, letting them choose more than one committee, would they serve on something else. Currently they are applying for one or another. They should make it where an applicant can get into the pool for anything.

Councilmember Winters – Reminder to everyone about Festival on the Trails on Saturday. Sawyer brown will be the main act, it's a free concert. They will have activities all day, kids activities 11-5: balloon artists, face painters, inflatables, DJ. There will also be a car show. Mayor Shute added there will be a corn hole tournament.

Councilmember Baldwin - none

Councilmember Gregorcyk – thanks for the comment about the grass mowing. He has had people contact him about it. Gregorcyk directed a comment to Public Works Director Kramer - if a driver is at Wildcat and Moonlight, looking northbound, there's no curbing where the residential street meets Moonlight. The road is getting rutted out. Does the street master plan have any curbing for that area? Kramer responded that he will look into it. He said the plan does account for Moonlight Road improvements. That's a long term plan, but Kramer doesn't think there's anything in the short term.

Councilmember Melton – thank you to staff regarding the crosswalk on 183rd and mulberry. Melton received a number of calls from residents that were excited that engineers were out and inspecting.

Mayor Shute – He offered another reminder to residents to go to Festival on the Trails. It's a Gardner tradition. It's part of the civic life of our community. Spend time with the events. Communications Manager Marshall-Oquendo reminded the Mayor of the city-wide clean up beginning Saturday. Shute said the clean up will begin this Saturday

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for residents on the south side of Main Street. Residents do not need to be a Gardner Disposal customer. If they have junk, the city will pick it up. This is the opportunity every year, free of charge. This Saturday is the first one, and the next Saturday, June 15th will be for the north side of Main Street.

ADJOURNMENT

There being no further business to come before the Council, on a motion duly made by Councilmember Melton and seconded by Councilmember Baldwin the meeting adjourned at 08:01 p.m.

City Clerk