

RESOLUTION NO. 1754

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF GARDNER, KANSAS, SETTING FORTH CERTAIN FINDINGS IN ACCORDANCE WITH K.S.A. 12-6a04; AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENT IN ACCORDANCE WITH THE FINDINGS OF THE GOVERNING BODY (PRAIRIEBROOKE).

WHEREAS, K.S.A. 12-6a02 authorizes the governing body of any city to make or cause to be made municipal works or improvements which confer a special benefit upon property within a definable area of the city and to levy and collect special assessments upon property in an area deemed by the governing body to be benefited by such improvements for special benefits conferred upon such property by any such improvements or an area described in a petition submitted in accordance with K.S.A. 12-6a04 (c) and (d) and to provide for the payment of all or any part of the costs of the improvements with the proceeds of such special assessments; and

WHEREAS, a petition, executed by the owners of all of the property within the proposed improvement district, has been filed with the City Clerk of the city of Gardner, Kansas (the "City"), requesting certain improvements be made in accordance with K.S.A. 12-6a01 *et seq.*; and

WHEREAS, in accordance with K.S.A. 12-6a04(c), the petition includes (a) a statement that the signer of the petition is the owner of 100% of the property proposed to be included in the improvement district and (b) acknowledges that (i) the petition is submitted pursuant to K.S.A. 12-6a04(c), (ii) the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvements and (iii) the signer's name may not be withdrawn from the petition by the signer after the governing body commences consideration of the petition or later than seven days after such filing, whichever occurs first; and

WHEREAS, K.S.A. 12-6a04(d) provides that upon receipt of a petition filed with the City Clerk in accordance with K.S.A. 12-6a04(c), the Governing Body of the City may (a) make findings by resolution as to (i) the advisability of the improvements requested in the petition, (ii) the nature of the improvements, (iii) the estimated cost, (iv) the boundaries of the improvement district, (v) the method of assessment, (vi) the apportionment of cost, if any, between the improvement district and the city-at-large, and (vii) the improvement district not including all the property which may be deemed to be benefited by the proposed improvements, and (viii) the willingness of the signers of the petition to pay the costs of the proposed improvements as set forth in the petition, and (b) order the improvements without notice or public hearing; and

WHEREAS, the Governing Body finds and determines that the Petition is sufficient and that it necessary to make its final findings by resolution as to the advisability of the proposed improvements and finds and determines it necessary to authorize the improvements;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION 1. The Governing Body of the City hereby finds and finally determines that:

(a) It is advisable to make the following improvements in the City (the “Improvements”):

The Kill Creek Road Extension project will consist of the construction of approximately 1,000 lineal feet of 36 feet wide collector type roadway with sidewalk on both sides, 455 lineal feet of 18”-36” storm sewer pipe, 685 lineal feet of reinforced concrete box with wingwalls that is approximately 11’x5’, 110 lineal feet of quadruple reinforced concrete box with wingwalls that is approximately 9’x6’, 1,140 lineal feet of 8” water main with misc. fittings and hydrants, street lights, curb inlets, erosion control, rip rap and all other necessary appurtenances.

(b) The estimated or probable cost of such Improvements is \$1,855,000.

(c) The extent of the improvement district in the City to be assessed for the cost of the Improvements is set forth in Exhibit A to this Resolution.

(d) The method of assessment is: the costs of the Improvements to be allocated to tracts based on the proportion shown below:

Tract	Percent of Improvement Cost
1	52.032%
2	40.266%
3	7.702%

Provided that cost of the Improvements allocated to a tract shall be further spread on a square foot basis within such tract, excluding undevelopable tracts designated for green space, storm water detention and public infrastructure and right-of-way.

(e) The apportionment of the cost of the Improvements, between the improvement district and the city-at-large, is 100 percent (100%) to be assessed against the improvement district and 0 percent (0%) to be paid by the city-at-large.

(f) The improvement district does not include all the property which may be deemed to be benefited by the proposed Improvements.

(g) The persons or entities signing the petition are willing to pay the costs of the proposed improvements as set forth in the petition even though all property which may be benefited by the proposed Improvements will not be assessed for the cost of the Improvements.

SECTION 2. The Improvements are hereby authorized and ordered to be made in

accordance with the findings of the Governing Body as set forth in Section 1 of this Resolution.

SECTION 3. In accordance with United States Treasury Regulation 1.150-2, the Governing body of the City hereby indicates its intent to reimburse the City with the proceeds of bonds, notes or other obligations of the City, the interest on which is expected to be exempt from federal income taxation for the costs of the Improvements in an amount not to exceed the estimated cost of the Improvements plus 10%.

SECTION 4. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Johnson County, Kansas.

ADOPTED AND APPROVED by the Governing Body of the City on June 16, 2008.

(Seal)

/s/ Carol Lehman
Carol Lehman, Mayor

/s/ Teresa Anderson
Teresa Anderson, City Clerk

EXHIBIT A

TRACT 1

PRAIRIEBROOKE VILLAGE

All of Lot 1 Prairiebrooke Village, a subdivision of land now in the City of Gardner, Johnson County, Kansas, containing 12.00 acres more or less.

TRACT 2

PRAIRIEBROOKE UNPLATTED R-2

All that part of the West Half of the Southeast Quarter of Section 22, Township 14, Range 22, now in the City of Gardner, Johnson County, Kansas, described as follows: Commencing at the Southwest corner of the Southeast Quarter of said Section 22; thence South 89 degrees 48 minutes 37 seconds East, along the South line of the Southeast Quarter of said Section 22, a distance of 698.14 feet; thence North 0 degrees 11 minutes 23 seconds East, a distance of 351.61 feet; thence Northwesterly, along a curve to the left having a radius of 220.00 feet a central angle of 46 degrees 29 minutes 06 seconds a distance of 178.49 feet; thence North 46 degrees 17 minutes 43 seconds West, a distance of 125.38 feet; thence North 43 degrees 42 minutes 17 seconds East, a distance of 60.00 feet, to the point of beginning; thence North 46 degrees 17 minutes 43 seconds West, along the Easterly right-of-way line of Kill Creek Road, as now established, a distance of 220.15 feet; thence Northwesterly, along said right-of-way line, along a curve to the right having a radius of 500.00 feet a central angle of 23 degrees 19 minutes 55 seconds a distance of 203.61 feet; thence North 69 degrees 54 minutes 10 seconds East, along said right-of-way line, a distance of 19.39 feet; thence North 20 degrees 05 minutes 50 seconds West, along said right-of-way line, a distance of 50.00 feet; thence South 69 degrees 54 minutes 10 seconds West, along said right-of-way line, a distance of 19.39 feet; thence Northwesterly, along said right-of-way line, along a curve to the right having a radius of 500.00 feet, an initial tangent bearing of North 17 degrees 13 minutes 52 seconds West, a central angle of 2 degrees 45 minutes 19 seconds a distance of 24.05 feet; thence North 14 degrees 28 minutes 33 seconds West, along said right-of-way line, a distance of 309.16 feet; thence Northwesterly, along said right-of-way line, along a curve to the left having a radius of 330.00 feet a central angle of 14 degrees 40 minutes 36 seconds a distance of 84.53 feet; thence North 70 degree 50 minutes 10 seconds East, a distance of 442.45 feet; thence South 21 degrees 20 minutes 36 seconds East, a distance of 127.86 feet; thence South 54 degrees 57 minutes 51 seconds East, a distance of 133.33 feet; thence South 67 degrees 02 minutes 46 seconds East, a distance of 603.89 feet, to a point on the East line of the West Half of the Southeast Quarter of said Section 22; thence South 0 degrees 15 minutes 23 seconds East, along the East line of the West Half of the Southeast Quarter of said Section 22, a distance of 351.98 feet; thence South 89 degrees 44 minutes 37 seconds West, along the Northerly line of Prairiebrooke, a subdivision of land now in the City of Gardner, Johnson County, Kansas, a distance of 153.25 feet; thence North 83 degrees 13 minutes 18 seconds West, along said Northerly line, a distance of 100.00 feet; thence South 81 degrees 03 minutes 33 seconds West, along said Northerly line, a distance of 139.93 feet; thence Northerly, along said Northerly line, along a curve to the left having a radius of 375.00 feet, an initial tangent bearing of North 8 degrees

56 minutes 27 seconds West, a central angle of 9 degrees 34 minutes 18 seconds a distance of 62.65 feet; thence South 71 degrees 29 minutes 15 seconds West, along said Northerly line, a distance of 50.00 feet; thence South 59 degrees 06 minutes 55 seconds West, along said Northerly line, a distance of 316.75, to the point of beginning, containing 14.02 acres more or less.

PRAIREBROOKE UNPLATTED RP-3

All that part of the West Half of the Southeast Quarter Section 22, Township 14, Range 22, now in the City of Gardner, Johnson County, Kansas and all that part of the East Half of the Southwest Quarter of said Section 22, described as follows: Beginning at the Southwest corner of the Southeast Quarter of said Section 22; thence South 89 degrees 48 minutes 37 seconds East, along the South line of the Southeast Quarter of said Section 22, a distance of 698.14 feet; thence North 0 degrees 11 minutes 23 seconds East, along the Westerly right-of-way line of Kill Creek Road, as now established, a distance of 351.61 feet; thence Northwesterly, along said right-of-way line, along a curve to the left having a radius of 220.00 feet a central angle of 46 degrees 29 minutes 06 seconds a distance of 178.49 feet; thence North 46 degrees 17 minutes 43 degrees West, along said right-of-way line, a distance of 345.53 feet; thence Northwesterly, along said right-of-way line, along a curve to the right having a radius of 560.00 feet a central angle of 10 degrees 24 minutes 14 seconds a distance of 101.69 feet; South 65 degrees 04 minutes 05 seconds West, along the Southerly line of Prairebrooke Village, a subdivision of land now in the City of Gardner, Johnson County, Kansas, a distance of 328.11 feet; thence South 90 degrees 00 minutes 00 seconds West, along said Southerly line, a distance of 742.75 feet; thence South 0 degrees 00 minutes 00 seconds East, a distance of 373.61 feet; thence South 89 degrees 48 minutes 37 seconds East, parallel with the South line of the Southwest Quarter of said Section 22, a distance of 662.92 feet; thence South 0 degrees 11 minutes 23 seconds West, a distance of 310.00 feet, to a point on the South line of the Southwest Quarter of said Section 22; thence South 89 degrees 48 minutes 37 seconds East, along the South line of the Southwest Quarter of said Section 22, a distance of 63.61 feet, to the point of beginning, containing 17.66 acres more or less.

TRACT 3

ST. JOHNS HIGHLANDS II

All of Lots 78 thru 142 St. Johns Highlands, a subdivision of land now in the City of Gardner, Johnson County, Kansas, containing 13.67 acres more or less.