

## **CITY OF GARDNER'S 2012 LEGISLATIVE AGENDA**

### **State Issues**

The following is the City of Gardner's legislative agenda for 2012:

1. **Home Rule and Local Control** -- The governing of public affairs should remain accessible to citizens. Preservation of constitutionally granted home rule authority as it exists today is essential to effective and responsible local self-government. Locally elected officials are in the best position to make decisions of community concern and are most accountable for those decisions.

The City of Gardner opposes legislation that would directly or indirectly limit the constitutionally granted home rule authority of cities. This includes:

- a. **Annexation** -- allowing cities to grow is inherent to the ultimate success of communities in Kansas. Cities long have held the power of annexation to foster their orderly development. Gardner supports the currently established State statutes and opposes any changes that limit the authority of cities to grow in a planned and reasonable fashion which promotes the health, safety and welfare for all parties.
- b. **Eminent domain** -- is a fundamental authority for municipalities. The authority to acquire property through condemnation proceedings is critical for public improvements as well as sound economic development policy. The City believes meaningful protections exist in current statutes safeguarding landowner's rights in such proceedings.
- c. **Governmental Immunity** -- Gardner supports continued immunity protections from tort liability.
- d. **Management of Public Right-of-Way** -- The management of public rights-of-way is a fiduciary responsibility of local government. Gardner vigorously opposes restrictions which may be placed on local governments restricting the management of public rights-of-way or limiting our ability to recover public costs incurred when such property is necessarily used by regulated and non-regulated utilities or service providers. The City of Gardner recognizes that the last decade has brought major changes to telecommunications services. As these changes are made the essential role, responsibilities, and the rights of local governments must be maintained. Changes to state and federal telecommunications laws should reaffirm local jurisdictions' authority to manage their public rights-of-way, allow local jurisdictions to set fair compensation for use of the rights-of-way, and allow local governments to provide to its citizens essential services at fair and competitive costs. Additionally, similar types of services that are provided via cable lines or phone lines should be treated in the same way with respect to the public rights-of-way and franchise fees.
- e. **Support Home Rule Authority to Impose Development Related Fees** -- Gardner supports the existing home rule authority for cities to impose development fees to ensure that development pays for itself without having to resort to increased

property taxes. The excise tax is one development fee that gives cities the flexibility to fund significant infrastructure improvements associated with growth. Without an excise tax, cities would be forced to raise the property and other taxes to support growth. Currently, monies received from development fees cover only a portion of the cost for which the fees are imposed and do not endeavor to recover 100% of the cost for development.

- f. Transportation Development Districts -- The City of Gardner supports the ability of cities to establish transportation development districts in order to provide for the transportation infrastructure needs in the community.
- g. Revitalization Tools -- Gardner continues its support of tools designed to assist communities maintain their beauty and vitality, such as the Neighborhood Revitalization Act, the Downtown Redevelopment Act, and the Community Improvement Act.
  - 1. Gardner also supports amendments to the new Community Improvement District Act to correct inconsistencies and clarify procedural requirements. The Legislature created a new financing mechanism in 2009, allowing cities and counties to create Community Improvement Districts (CIDs) to more easily work with developers to encourage development and redevelopment. Communities having tried to implement this new tool noted certain procedural requirements and that some inconsistencies in the law need to be corrected. These amendments will enable cities and counties to use CIDs to benefit their communities.
- h. Spending and Tax Lids -- The City opposes any state-imposed taxing and spending lids. Local taxing and spending decisions are best left to local officials and the citizens they serve. (*Joint with Johnson County*)
- i. Unfunded Mandates -- The imposition of State mandates and programs on local governments without accompanying State funding is contrary to the spirit of constitutional home rule. Any function or activity mandated by the State upon local governments should be fully and continuously funded by the State.
- j. State Revenue Sharing -- Supports continuing statutorily set state-local revenue pass through programs, and oppose further reduction in revenues to local governments. These should be fully remitted to local units of government, including Special City/County Highway Funds and Special Drug and Alcohol. These funds are partnerships between local governments and the State, and are generated via economic activity at the local level and should not be withheld from local governments and placed solely into the State General Fund. Local governments should not be asked to further aid in balancing the State's budget. (*Joint with Johnson County*)
- k. Property Tax -- The City of Gardner believes any impacts of state legislative property tax relief should be incurred entirely by the State and that locally elected leaders should retain the ability to raise or lower local taxes.
- l. Franchise Authority -- Gardner opposes any legislation that restricts the current

franchise authority for cities.

- m. Employer-Employee Relations -- Gardner opposes legislation that would eliminate the local option provision in the Kansas Public Employer-Employee Relations Act (PEER), K.S.A. 75-4321 and views this as an erosion of home rule authority. This act allows local units of government to determine whether or not unions can form in their organization.

2. **Transportation Funding** -- Recognizing that transportation infrastructure is critical to public safety and quality of life, Gardner supports funding for the new T-WORKS, comprehensive transportation plan. Further, the City of Gardner opposes any action of the State to reallocate federal transportation monies earmarked for and shared with counties and cities to finance any State revenue shortfalls in T-WORKS. By maintaining the transportation infrastructure, the State of Kansas and its local governments will benefit from the economic development opportunities that come with a well-maintained transportation system. (*Joint with Johnson County*)

- Additionally, the Legislature should see that Special Highway revenues continue to be handed down to municipalities to ensure that local roadways as well as state roadways are receiving adequate dollars for ongoing maintenance and repair. The City of Gardner opposes legislation that would reduce the sharing of motor fuel tax revenue with local units of government.
- Finally, the City of Gardner supports implementation of T-WORKS as soon as fiscally possible.

3. **Sales Tax** -- is one of the State's and local governments' most significant form of revenue and it needs to be protected.

- a. **Local Option Sales Taxes**— The City of Gardner maintains that local officials and their residents should determine local sales tax and use rates and opposes any legislation that would preempt local authority to set these rates. Gardner supports existing authority of local governments to impose local sales taxes for special uses.
- b. **Sales Tax Exemptions** –Gardner encourages the Legislature to protect the sales tax base by not further eliminating taxable items, especially in these challenging economic times. (*Joint with Johnson County*)
- c. **Destination Based Sales Tax** --Gardner and many other communities have benefited from the change to destination based taxation. It is a proper distribution of the money and creates a way to tax Internet sales.

State and municipal governments rely heavily on sales tax revenue to provide public services. Although residents making on-line purchases receive these services, they do not share equally in the cost. Unequal taxing of remote sales creates an unfair pricing advantage for on-line retailers. Nationwide implementation of the destination based sales tax will level the playing field between on-line and “main street”

businesses. We believe the State should continue efforts promoting the collection of sales taxes while minimizing the burden on companies.

The Compensating Use Tax expanded by the Streamlined Sales Tax Act has also become an important revenue source for local governments. The Compensating Use Tax helps offset the loss in City income created when sales tax proceeds were shifted from point of sale to point of delivery. This essential revenue source should be maintained as a part of destination based sales.

4. **Open Meetings and Open Records** -- All levels of government should be subject to the same open meetings and open records requirements. These laws should not be unduly burdensome. State open records laws should balance the public's right of access with the necessity of protecting the privacy of individual citizens and the ability of public agencies to conduct their essential business functions. Additionally, the City wants to reiterate that there are circumstances the public is better served by preventing the disclosure of sensitive information. That includes instances where cities could be placed in a disadvantage in negotiations, legal processes, or open it to liability that a private company would not be subject to in the course of business. *(Joint with Johnson County)*
  
5. **Address Adequate Funding and Reforms to State Mandated Local Pension Plans** -  
- The local KPERS system should remain separate from state and school retirement systems. The system should accumulate sufficient assets during members' working lifetimes to pay all promised benefits when members retire. The City of Gardner supports achieving a fully funded public employees retirement system within a reasonable period of time and while remaining separate from state and school retirement systems. *(Joint with Johnson County)*
  
6. **International Codes for Government, Public, Residential and Commercial Buildings** -- The City of Gardner supports the Kansas Heart of America Chapter, ICC efforts in recommending the adoption of the International Codes for all government and public buildings, residential and commercial.
  
7. **Municipal Budget Calendar** -- Gardner supports legislation that would extend the statutory timetable for municipal budget preparation, publication, hearing, adoption, and certification between 30 and 90 days, which is similar to most other states.
  
8. **Property Tax on Aircraft Nexus** -- The City of Gardner supports any change in state statutes that will allow aircraft personal property tax to be given to the community where the aircraft is housed a majority of the year.
  
9. **Water and Wastewater Infrastructure Funding** -- The City of Gardner supports increased state funding to assist local communities with their water and wastewater infrastructure and associated security needs.

10. **Transportation Issues** --

- Capacity improvements are needed at I-35 and 175<sup>th</sup> Street (Exit 210) to service expanding business at New Century Air Center. The City just recently approved 2 million square feet of warehousing just west of the interchange for the Midwest Commerce distribution facility. The developer has completed the 1.1 million square feet Coleman building. Additionally, the City has approved retail development on the east side of the interchange that will further accelerate the need for capacity at this interchange.
- Additionally, capacity improvements are needed on I-35 south of the new Lone Elm interchange to at least the Johnson County line. This includes adding a third lane.
- City is seeking assistance with the relocation of the weigh station located from just south of the new Lone Elm interchange to south of Gardner. The station does not have the necessary stacking capacity for the traffic today. Once the intermodal facility opens this will further increase demand and possibly divert truck traffic onto local roadways to avoid the weigh station.

11. **Clean Air and Diesel Emission Reduction** -- Gardner supports air quality controls which protect the health and safety of the community while allowing for orderly economic development. The City of Gardner encourages the State to look at banning idling of vehicles to help reduce harmful emissions, including enforcement of environmental controls on heavy duty trucks and commercial warehousing operations, especially those that generate diesel emissions as long as these controls are at least as stringent as required under state and federal law.

12. **Solid Waste and Recycling** -- Gardner supports State legislation to provide grant programs to encourage haulers to provide recycling opportunities and expanded services to the citizens of Kansas. Currently, Kansas provides far fewer dollars in support of recycling, composting and waste reduction than our neighboring state to the east.

13. **E-Government Initiatives** -- Gardner continues to look for ways to expand 24 hour a day access to its local government through a variety of digital initiatives, including online payments of bills and purchase of services. Gardner encourages efforts to remove roadblocks that deter the expanded use of technology that provides residents more efficient and effective delivery of services. *(Joint with Johnson County)*

14. **Support for Public Power** -- As with all public providers, Gardner strives to provide excellent service to its ratepayers while maintaining rates comparable to those of the larger electric utilities around it. As such, Gardner encourages the State to provide support as it can to the public power providers of the State in the following ways:

- a. Work to facilitate, through the KCC and applying utilities, improved efficiency in planning, permitting and construction of new transmission facilities, as well as identification of transmission paths through the Southwest Power Pool (SPP).

Adequate transmission facilities and path availability are critical to public power's access to affordable, reliable sources of power to maintain high levels of service and competitive rates to the ratepayers.

- b. Provide any available incentives to power providers to implement programs and initiative for energy efficiency, conservation, and Smart Grid technologies.
  - c. Facilitate development of necessary and prudent generation facilities utilizing all solar, geothermal, etc – to ensure available and reliable power sources and choices for public power providers and customers.
15. **Commercial Property Evaluations** -- Shifting Burden of Proof in Appraisal Hearings: The current statute, K.S.A. 79-1609, shifts the burden of proof for leased commercial property owners when they present three years income and expense information to the county appraiser at the various stages in the hearing process. Gardner supports Johnson County's request to change the law that would require that they present the information at the informal level. This should resolve valuation cases earlier in the hearing process.
16. **Redistricting** -- Gardner supports legislative redistricting of the Kansas Legislature that adheres to the constitutional principle of one-person one vote. Gardner urges the Legislature to provide for equal representation as closely as possible. Gardner do not support redistricting that test the extremes of allowable population variances. No redistricting solution should include legislative districts that only meet the minimum or maximum population variances of 5 percent, 95 percent below or 105 percent above of the actual population. The impact of this proposal, if it were to be implemented, would skew and over-represent some areas while under-representing other areas. If the Legislature allows this unequal representation, it will have an impact on the number and location of new House and Senate seats and would not accurately reflect changes in the Kansas population. (Joint with Johnson County)
17. **Investment of public moneys by governmental entities** -- Investment statutes K.S.A. 12-1675 and K.S.A. 12-1677b both contain language limiting the investment of public moneys to local banks, savings and loan associations and savings banks within the investing governmental unit as long as the local financial institutions bid the required investment rate as defined in those statutes. Gardner believes governmental entities should be able to invest public moneys without any restrictions requiring the use of "local" financial institutions.