



City of Gardner, Massachusetts

Office of the City Council

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### CALENDAR FOR THE MEETING

of

MONDAY, MARCH 20, 2017

COUNCIL CHAMBER

7:30 P.M.

### ORDER OF BUSINESS

#### I. CALL TO ORDER

#### II. CALL OF THE ROLL OF MEMBERS

#### III. OPENING PRAYER

#### IV. PLEDGE OF ALLEGIANCE

#### V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

#### VI. READING OF MINUTES OF PRIOR MEETING(S)

Reading and Approval of the Minutes of the March 6, 2017 Regular Meeting.

#### VII. PUBLIC HEARINGS

#### VIII. COMMUNICATIONS FROM THE MAYOR

##### APPOINTMENT

**9760** – A Measure Confirming the Mayor’s Appointment of Duncan Burns to the Position of Member, Conservation Commission, for term expiring February 28, 2020 (*Finance Committee*).

#### IX. PETITIONS, APPLICATIONS, ETC.

**9761** – A Measure Confirming the City Clerk’s Appointment of John A. Olivari to the Position of Assistant City Clerk for the term expiring March 20, 2020 (*Finance Committee*).

**9762** – An Ordinance to Amend the Code of the City of Gardner, Chapter 600 Thereof, Entitled “Vehicles and Traffic,” Obedience to Isolated Stop Signs and Isolated Yield Signs – South Main, Kendall, and Travers Streets (*Public Safety Committee*).

## **X. REPORTS OF STANDING COMMITTEES**

### **FINANCE COMMITTEE**

**9741** – Review of Yearly Salaries for Various Positions (§171-66 of the City Code)  
*(In City Council and Referred to the Finance Committee 2/6/2017).*

**9755** – An Order Appropriating \$50,000.00 from Free Cash to Community  
Development & Planning, Zoning Code Update Account *(In City Council and  
Referred to the Finance Committee 3/6/2017).*

### **COMMITTEE OF THE WHOLE**

**9758** – A Resolution Creating a City Council Ad-hoc Charter Committee *(In  
City Council and Referred to the Committee of the Whole 3/6/2017).*

## **XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

**9722** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675  
Thereof, Entitled “Zoning,” to Change the Classification of a Certain Parcel of  
Land Located at 229 Parker Street *(In City Council and Referred to the Planning Board  
for Review 12/19/2016; Planning Board Response Received and Ordered to Public Hearing  
1/17/2017; Joint Public Hearing Held 2/21/2017; PB Final Report Received and Ordered to  
First Printing 3/6/2017; First Printing 3/10/2017).*

## **XII. NEW BUSINESS**

## **XIII. CLOSING PRAYER**

## **XIV. ADJOURNMENT**

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Items listed on the Council Calendar are those reasonably anticipated by the Council President to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

**REGULAR MEETING OF MARCH 6, 2017**

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Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 6, 2017.

**CALL TO ORDER**

Council President Ronald Cormier called the meeting to order at 7:30 o'clock p.m.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Eleven (11) Councillors were present including President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh.

**OPENING PRAYER**

President Cormier led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Cormier led the Council in reciting the "Pledge of Allegiance".

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Cormier announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

**INTRODUCTION OF GUESTS**

President Cormier announced that several distinguished officials from the City of Fitchburg were present, including Mayor Stephen DiNatale's Chief of Staff, Mr. A.J. Tourigny; City Treasurer/Collector Calvin Brooks; Chief Procurement Officer Mary Delaney; and, Executive Intern Zach Davis.

**READING & ACCEPTANCE OF MINUTES**

On a motion by Councillor James Walsh and seconded by Councillor Paul Tassone, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to waive reading and to accept the Minutes of the February 21, 2017 Public Hearing and Regular Meeting, as printed.

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COMMUNICATIONS FROM THE MAYOR**#9752**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee voted unanimously to recommend that the Council confirm the appointment of Randall Heglin. He added that Mr. Heglin has done a fine job as a member of the Zoning Board of Appeals.

On a motion by Councillor James Walsh and seconded by Councillor Marc Morgan, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to confirm the following appointment received from the Mayor:

**RANDALL HEGLIN** to the position of **MEMBER, ZONING BOARD OF APPEALS**, for term expiring February 17, 2020.

Worcester, ss.

March 7, 2017

Then personally appeared **RANDALL HEGLIN** and made oath that he would faithfully and impartially perform the duties of **MEMBER, ZONING BOARD OF APPEALS** according to law and the best of his abilities.

Before me,

/s/ Alan L. Agnelli, City Clerk

**#9753**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee voted unanimously to recommend that the Council confirm the appointment of Raymond LaFond, adding that Mr. LaFond is in his 38<sup>th</sup> year as a member of the Zoning Board of Appeals.

On a motion by Councillor James Walsh and seconded by Councillor Marc Morgan, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to confirm the following appointment received from the Mayor:

**RAYMOND LAFOND** to the position of **MEMBER, ZONING BOARD OF APPEALS**, for term expiring February 17, 2020.

REGULAR MEETING OF MARCH 6, 2017

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Worcester, ss.

March 6, 2017

Then personally appeared **RAYMOND LAFOND** and made oath that he would faithfully and impartially perform the duties of **MEMBER, ZONING BOARD OF APPEALS** according to law and the best of his abilities.

Before me,  
/s/ Alan L. Agnelli, City Clerk

**#9754**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee voted to recommend the appropriation. He said that the Order funds the purchase of only 48 gallon Toters® and noted that the last time that Toters® were purchased was in 2010 via a loan order and that the supply has dwindled. He added that the 96-Gallon Toters® will be purchased through a Board of Health grant.

On a motion by Councillor James Walsh and seconded by Councillor Marc Morgan, on recommendation of the Finance Committee, it was voted on call of the roll, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to adopt the following Order:

AN ORDER APPROPRIATING A SUM OF MONEY FROM SOLID WASTE AVAILABLE ENTERPRISE FUNDS ACCOUNT TO SOLID WASTE NEW EQUIPMENT EXPENSE

ORDERED: That there be and is hereby appropriated the sum of Nineteen Thousand One Hundred Thirty-Three Dollars and No Cents (\$19,133.00) from Solid Waste Available Enterprise Funds Account to Solid Waste New Equipment Expense.

Presented to Mayor for Approval – March 7, 2017

Approved – March 16, 2017

MARK P. HAWKE, Mayor

**#9755**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee had questions concerning the amount of the Order and of the Consultant; however, since no one was present to answer questions, the Committee voted to recommend that it be referred back to the Finance Committee for further study and report.

On a motion by Councillor James Walsh and seconded by Councillor Marc Morgan, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone,

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Matthew Vance, and James Walsh, to refer the following Order to the Finance Committee for further study and report:

AN ORDER APPROPRIATING FROM FREE CASH TO COMMUNITY DEVELOPMENT & PLANNING, ZONING CODE UPDATE ACCOUNT.

ORDERED: That there be and is hereby appropriated the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) from Free Cash to the Community Development and Planning, Zoning Code Update Account.

**#9756**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the individual is employed by the City in the summer by the Greenwood Pool and, if exempted, would also serve as a part-time swim team coach.

On a motion by Councillor James Walsh and seconded by Councillor Marc Morgan, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to adopt the following Measure:

APPROVAL OF EXEMPTION PURSUANT TO G.L. C.268A, §20(b)  
FINANCIAL INTEREST OF JESSICA FRANCIS  
CONTRACT FOR SWIM COACHING SERVICES

*VOTED:* To approve an Exemption pursuant to G.L. C. 268A, §20(b) in the Matter of a Financial Interest by Jessica Francis for a Contract for Swim Coaching Services.

Presented to Mayor for Approval – March 7, 2017

Approved – March 16, 2017

MARK P. HAWKE, Mayor

**#9757**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the individual is employed by the City at the Golf Course and, if exempted, would also serve as a part-time substitute teacher in the School Department.

On a motion by Councillor James Walsh and seconded by Councillor Marc Morgan, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to adopt the following Measure:




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APPROVAL OF EXEMPTION PURSUANT TO G.L. C.268A, §20(b)  
 FINANCIAL INTEREST OF JOSEPH GOGUEN  
 CONTRACT FOR SUBSTITUTE/INTERMITTENT TEACHER SERVICES

*VOTED:* To approve an Exemption pursuant to G.L. C. 268A, §20(b) in the Matter of a Financial Interest by Joseph Goguen for a Contract for Substitute/Intermittent Teacher Services.

Presented to Mayor for Approval – March 7, 2017

Approved – March 16, 2017

MARK P. HAWKE, Mayor

**#9758**

Leading to a motion, Councillor Matthew Vance stated that the Council worked on the Charter for a very, very long time and submitted to the Mayor “what we [Council] thought was a decent Charter; however, the Mayor returned it with objections.” He said that “no matter what the Council did, it would not have moved forward,” adding that he “strongly believes that the Charter is important enough and that there are some flaws in it and needs to be updated as [provisions] are not being followed because they are out-of-date or not in-line with State law.” He said that he drafted the Resolution with the intent to create a subcommittee “that would meet to reconcile differences between what the Council submitted and what he [Mayor] is looking for,” adding that he “believes that there is some common ground with the hope of coming to a good decision that is in the best interests of the entire City.”

Councillor Vance then moved to adopt the following Resolution:

**RESOLUTION**

CREATING AN AD-HOC COMMITTEE OF THE GARDNER CITY COUNCIL  
 TO MAKE RECOMMENDATIONS ON THE CITY CHARTER

Whereas, the City Council adopted a Petition to amend the City Charter; and

Whereas, the Mayor returned the Petition with objections; and

Whereas, it is in the best interest of the city to update the City Charter.

Now, therefore, be it resolved by the Council of the city of Gardner, as follows:

Section 1: The Committee on the City Charter is hereby created (“the Committee”).

Section 2: The purpose of the Committee is to reconcile the differences between the Petition proposed by the City Council on the City Charter and the Mayor’s objections by his 'veto.'

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- Section 3: The Committee will consist of three (3) Councillors selected by the Council President, one will serve as Chairman. The Council President will strive to select at least one member who is generally in favor of large revisions and at least one member who is in favor of limited revisions.
- Section 4: The Committee will meet with the Mayor to come to suitable changes to the City Charter.
- Section 5: The Committee will be in effect until it provides the City Council with a Charter which is suitable to the members of the Committee and the Mayor by majority vote of the Committee.

Councillor Nathan Boudreau seconded the motion.

On the motion, Councillor Karen Hardern stated that the Council worked very hard on the Charter [revisions] and expended \$20,000 to do so and said that “it is a shame to brush it aside.” She said that she supports the Resolution presented by Councillor Vance.

Councillor Scott Graves remarked that the proposal “would be another ‘Ring Around the Rosie’ dance” and “cherry-picking three City Council members isn’t going to do anything.” Citing the Resolution, Mr. Graves said, “One [Councillor] is going to be in favor of large revisions, whatever that means, and then one [Councillor] is going to be in favor of limited revisions, whatever that means, and I assume that the third one [Councillor] is going to be somewhere in the middle. That is just going to be a quagmire, in my opinion. Then it will come back to the City Council and we are going to do the ‘Ring Around the Rosie’ again.”

Councillor Graves continued, “First of all, the \$20,000 that we spent on it [Charter study] – [I] don’t know why we are not getting our money back. The Collins Center did not do what we paid them to do, so we should at least get our \$20,000 back.” He continued saying “The other thing is that you’re eliminating 8 City Councillors in the process ... It’s clear what the Mayor wants. This whole thing started because certain provisions were antiquated or not feasible. That’s why we [Council] did it.” He said that the Council asked the Mayor’s Legal Department to go through the Charter line-by-line in order to advise the Council “what didn’t work, what was illegal, what did not coincide with State laws.” “We got the opinion from the Legal Department and the Council addressed every issue,” he said, adding “I thought that’s why we did this in the first place – and we did it -- and it was vetoed. So, what are we doing here? [Do] we want substantive changes to the City Charter?”

Councillor Graves concluded his remarks by saying that, in his opinion, “Leave the Charter the way it is, as it has caused no problems or calamities that I know of and I am not hearing why we want to change it in the first place.” “The Resolution does not say what we are trying to do,” he added.



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Councillor James Walsh stated that he concurred with many of the views expressed by Councillor Graves, noting that the Charter has been in effect since 1923, with some amendments throughout the years. "I am not aware of any provision of the Charter that has prevented the City from doing things that we need to do or has forced us to do things that we didn't want to do," he said. "There have been many suggestions of changes that need to be made, but nobody has told me or [have been made] aware of any public assertion of what those changes are that people say need to be done that would be accomplished through this ad-hoc committee," he said.

Mr. Walsh continued, "So, I am anxious to hear from those that support this proposition what it is that they think needs to be done that we missed during our deliberations. What did we miss," he asked. "We went through this [Charter] section-by-section, line-by-line. We had the benefit of the Legal Department's opinion on obsolescence, inconsistencies contrary to law, as well as the benefit of a brief opinion from the Attorney General's Office indicating things could be done that perhaps our Legal Department thought could not be done. We have been through this process, so I am anxious to hear from anyone who cares to respond and who supports this." "What is it that you feel needs to be changed," he asked.

Councillor Marc Morgan expressed agreement with Councillors Graves and Walsh, saying that the Council worked hard on evaluating the Charter, cleaned up what needed to be cleaned up, and sent it to the Mayor for his approval, who then vetoed it. "So, in my opinion, it's not that the City Council didn't do its job. We did our job. Where it stands now, the Mayor didn't like the job that was done because it didn't fill his needs." He concluded his comments by stating his opposition to the creation of an ad-hoc committee.

Councillor Paul Tassone said that the Council decided that there were changes that needed to be made and that it made terminology and other changes. "Unfortunately," he added, "the Mayor vetoed the Charter [Petition]. He continued, saying that at the same time, "we [Council] can talk about going around and around in a circle. At some point, we have to make the change. And, we have to understand why the Mayor had vetoed the Charter. Some compromise has to come into place. I'm not saying 'give the Mayor exactly everything that he's asking for.' But for us to just let that hard work that was put in by this Council and prior Councils and other people and residents of the City of Gardner."

He concluded, "But, to just let it go, although it has worked since 1923. I think it's silly of us to just let it be. And, I am going to support the ad-hoc committee whether or not it can be tweaked, changed, or left as is. That's for the group to decide."

Councillor James Boone expressed agreement with Councillor Tassone, saying that a whole lot of work has been done. "It's a shame that it's going to sit on a shelf and not move forward."

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So, is there a possibility that we can come to some kind of a compromise. I feel that we should at least reach out one more time to see if we can get it done,” he said.

Councillor Graves remarked that he disagreed that “a whole lot has been done.” “A whole lot hasn’t been done,” he said. “If you all recall [that] when the Council received comments from the Legal Department,” he said, “I’d say that 95% of the Charter was fine. It caused no conflict – no conflicts between the Charter and State law. There were very few comments from the Legal Department. And, even the comments that the Legal Department made weren’t ‘earth shattering’ comments,’ but ‘obvious things [in State law].” “I bet we didn’t change 2% of the Charter,” he added.

Mr. Graves concluded his remarks saying, “The work that was done was for nothing, unfortunately. That’s why we should get out \$20,000 back. The only work that was done was by the City Council with help from the Legal Department. We did the work, we met two or three times, we all did our homework behind the scenes and then sent it to the Mayor.”

Councillor Vance stated that there were a lot of good points [made], remarking that Councillors Walsh and Graves are partly right [since] there are only minor parts that are contrary to current State law. “But the fact remains,” he said, “that we are ignoring several parts of our Charter. What’s the point of having a Charter if we’re just going to ignore parts of it?”

He continued, saying “I think it behooves us to update the parts of the Charter that we ignore that are not clear and contradict themselves. And, as we found out from the Rockwell Committee, that if we and the Mayor do not agree; then we are not going to go anywhere.” “These changes are important,” he continued, “whether minor or large. We need to act on them. And we cannot decide that we are not going to do something with the hope that it happens. It’s not going to. If we as a committee decide that this is a good solution, then we can select some members to meet with the Mayor, come to a compromise, and bring it back to the Council where we can have a discussion. But, to just bury our heads in the sand and say ‘You know what, the Mayor disagrees with us, and we’re just going to give up.’ I think it’s us not doing our jobs. Our job is to do the best thing for the City and getting a Charter which is consistent with law and a Charter that best serves the City is the best thing for the City. I think that that is why we should at least have a discussion and have a discussion with the Mayor.”

Councillor Walsh expressed serious disagreement with the suggestion that “we must change the Charter,” because “as soon as we change the Charter, the Legislature could adopt an amendment to existing law that will nullify a provision of the Charter and if every one of those State laws starts with, “Notwithstanding any provision of a Charter to the contrary...

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the law shall be..." "And that changes our Charter, he added. "So, changes occur by the Legislature even though we don't change it ourselves. And many of the changes that we had to adopt in the process were because of changes in State law. And that will happen on an ongoing basis," he stated.

Mr. Walsh continued, saying that he has some serious problems with the language contained in the Resolution. "How do we know who is generally favorable to large changes" and who is favorable to limited changes?" Councillor Walsh stated that Section 5 indicates that "we can't stop the process until we come up with something. I think that's ridiculous."

He concluded his remarks saying that he thinks that in order to give this its fair consideration, there needs to be significant changes to the content of the Resolution, so he suggested that the Resolution be referred to the Council as a Committee of the Whole for study and report.

Councillor Walsh then moved to refer the Resolution to the Council as a Committee of the Whole for study and report.

Councillor Nathan Boudreau seconded the motion.

On the motion to refer, Councillor Vance said that if the Council decides to refer the Resolution to the full Council as a Committee of the Whole, 'then so be it.' "As we've said, this has been an ongoing process for a very, very long time." He said that the language [was] drafted so that the Council President can make (that) change and provide him [with the] opportunity to make those decisions. Sitting around this table, it is pretty clear who is in favor of changes. I trust the President's judgment. It's five bullet points and if there's some concern, we can fairly easily make that decision tonight. We very rarely have long meetings – I am not opposed to having a short meeting now to make those changes, as I don't think that it would be a difficult thing to do. I don't think that your objections are as large as you make them out to be."

Councillor Graves said "I don't think that the Resolution can be fixed. This is just 'Ring Around the Rosie' and it's going to be a bigger level of 'Ring Around the Rosie' because we've already done this." Continuing, he said "With all due respect to the [intent of the] motion [to refer to the full Council], I don't think that it can go anywhere, as we've already done it. [So] we are going to do it again? We are going to come out with the same result! I think that it was Einstein's definition of insanity that 'you do the same thing over and over again and expect a different result.' And that's [ad-hoc committee] just insane to me."

On the motion, it was voted viva voce, eight (8) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, James Johnson, Marc Morgan,



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Paul Tassone, and James Walsh; three (3) yeas, Councillors Scott Graves, Karen Hardern, and Matthew Vance, to refer the Resolution to the Council as a Committee of the Whole for study and report.

**REPORTS OF STANDING COMMITTEES****PUBLIC WELFARE COMMITTEE****#9722**

Councillor Marc Morgan, Chairman of the Public Welfare Committee, reported that subsequent to the Joint Public Hearing with the Planning Board, the Committee decided to not hold a special Committee meeting to take action on the proposed Ordinance, but that its members would act on the measure in Council.

On a motion by Councillor Marc Morgan and seconded by Councillor James Boone, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to discharge from Committee a Petition by GFA Federal Credit Union to Rezone a Single Parcel at 229 Parker Street from General Residential 3 to Commercial I.

**FINANCE COMMITTEE****#9741**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee continues to gather data from communities of similar size and budget and that the City Clerk is assisting in data collection for both Mayor and Councillor positions.

There being no objections, the Finance Committee was granted more time to report on the Review of Yearly Salaries for Various Positions (§171-66 of the City Code).

**#9750**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee received documentation from the proponents, MVOC and State Representative Jonathan Zlotnik, concerning the methods by which the land swap would occur. He said that the Representative informed the Committee that the City Council authorization will be incorporated into the legislation as part of the property exchange, rather than be placed out for bid. He added that the Council was provided with a revised Plot Plan that defines municipal access to backlands that the City owns behind Stump Pond.

On a motion by Councillor James Walsh and seconded by Councillor Marc Morgan, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig

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Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to adopt the following Measure:

DECLARING SURPLUS FOR PURPOSE OF DISPOSAL  
LAND AND BUILDINGS AT STUMP POND

*VOTED:* To declare surplus for the purpose of disposal, in accordance with prevailing General Laws, all land and any buildings at Stump Pond, further identified on the City of Gardner Assessor's Map as W27-11-2 to establish as a minimum amount of \$1.00 to be paid for any conveyance of said property, and to authorize the Mayor to convey said land, or part thereof, for such amount or a larger amount, and upon such other terms as the mayor shall consider proper in accordance with this Vote.

Presented to Mayor for Approval – March 7, 2017

Approved – March 7, 2017

MARK P. HAWKE, Mayor

**#9722**

Councillor James Walsh reported that the City Council received a communication from the Planning Board dated March 1, 2017, which purports to be its Final Report, recommending the Zoning change which was the subject of a recent joint public hearing with the Planning Board.

Councillor Walsh then moved to order the Ordinance to First Printing. Councillor James Johnson seconded the motion.

On the motion, Councillor Matthew Vance expressed a concern that “piecing out a certain parcels for zoning changes is questionable.”

Councillor Walsh responded, saying that Councillor Vance is referring to a concept known as “spot zoning.” He said that in this particular instance, the change is not “spot zoning,” since the parcel is the subject of a variance that was issued a number of years ago that permits the use that is proposed [expansion]. Secondly, he said, it is extending the existing zone. For example, this situation does not create a commercial zone in the middle of a residential zone, but extends a commercial zone by one additional lot.

On the motion, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to Order the following Ordinance to First Printing:

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AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO CHANGE THE CLASSIFICATION OF A PORTION OF A CERTAIN PARCEL OF LAND LOCATED AT 229 PARKER STREET.

Be it ordained by the City Council of the City of Gardner, as follows:

Section 1. Chapter 675 is hereby amended to change the classification from General Residential III to Commercial I for a portion of a certain parcel of land situated north of Parker Street, further described as follows:

Beginning at the southwesterly corner thereof in the northerly line of Parker Street at the property line between land now or formerly of the City of Gardner and land now or formerly of the Gardner Franco-American Credit Union;

Thence, northwesterly along the property line between land now or formerly of the City of Gardner and land now or formerly of the Gardner Franco-American Credit Union, a distance of 191.88 feet to a corner of land now or formerly of the City of Gardner and land now or formerly of Gardner Franco-American Credit Union;

Thence, easterly along the property line of land now or formerly of the Gardner Franco-American Credit Union, a distance of 222.73 feet to a corner of land now or formerly of Gardner Franco-American Credit Union and land now or formerly of Century West Real Estate Trust;

Thence, southeasterly along the property line now or formerly of the Gardner Franco-American Credit Union, a distance of 109.39 feet to a corner of land now or formerly of Gardner Franco-American Credit Union and land now or formerly of the Acadian Social Club, Inc.;

Thence, south along the property line now or formerly of the Gardner Franco-American Credit Union, a distance of 158.98 feet to the northerly line of Parker Street;

Thence, westerly by said line of Parker Street at distance of 314.88 feet to the point of beginning.

Section 2. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.

*First Printing – March 10, 2017*

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**#9743**

Citing the Mayor's Letter Disapproving AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 160 THEREOF, ENTITLED "OFFICERS AND EMPLOYEES," ARTICLE II, ASSISTANT CITY CLERK, Councillor James Walsh stated that the Mayor indicates in his letter that because of a suggested impact bargaining issue, [he] disapproves the proposed Ordinance. He said that the position of Assistant City Clerk had already been exempted and is a non-union position. Mr. Walsh noted that even if a second position had to be bargained, "I believe it's not so much the passage of the Ordinance that creates the need for impact bargaining, but the appointment of a person to that position that might have an impact that might require bargaining," adding "I think it is premature for the Mayor to be suggesting that this is a reason for his disapproval of the Ordinance. And even if there was an impact, I think that it would be small and the Mayor hasn't indicated that he would not impact bargain – you don't get to an unfair labor practice unless you don't impact bargain."

Mr. Walsh concluded his remarks saying, "I think that there is some unstated reason for the Mayor's disapproval [and] that this reason is being used as a cover. I believe that this is a position that is needed in the Clerk's Office and there was never a problem with this all along the way [as] the money is available in the Clerk's budget for the remainder of the fiscal year."

Councillor Walsh then moved to again pass the following Ordinance and send it to its Second and Final Printing, notwithstanding the disapproval of the Mayor:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 160 THEREOF, ENTITLED "OFFICERS AND EMPLOYEES," ARTICLE II, ASSISTANT CITY CLERK.

Be it ordained by the City Council of the City of Gardner as follows:

Section 1. Section 160-2 of the Code of the City of Gardner is hereby amended to read as follows:

The Office of Assistant City Clerk is established. The City Clerk may appoint two Assistant City Clerks for terms of three years, subject to confirmation by the City Council, who shall be sworn to the faithful performance of duty and, in the absence of the City Clerk, may perform those duties and have the powers and be subject to the requirements and penalties applicable to that office. Nothing contained herein shall be construed to prevent the reappointment of an Assistant City Clerk upon the expiration of the term of office.

Section 2. Section 160-3 Compensation, is amended to read as follows:

The salary of Assistant City Clerk shall be included in the ordinances designating salaries and wages for the City employees.

REGULAR MEETING OF MARCH 6, 2017

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Section 3. Effective date.

This ordinance shall become effective on passage and publication as required by law.

On the motion, Councillor Nathan Boudreau stated that he “takes a high level offense to the word ‘need.’” “Municipal budgeting,” he said “is a series of wants and needs. Needs? More firefighters - more teachers - more policemen on the street - get water to the homes that need it – heat - fuel.” A second assistant clerk, he added, at this time is not a need. “And we really have to think with the wallets of the people that got us here. What do they need? I like the person that would be appointed into this position a whole lot. But, unfortunately, at this time, whatever the Mayor’s reasoning that has to do with the union, is it true reasoning or not, I would like for you to understand that this is not a need for our City right now.”

Councillor Scott Graves expressed complete agreement with Councillor Walsh, noting that the City Council went through the legislative process to create the position, “which is part of the legislative branch of the City government, [a] non-union position, [and] doing what the legislature granted the City the authority to do.”

Councillor James Boone concurred with Councillor Boudreau, saying that he is not convinced that there is an absolute need at this time. “We’ve got our taxpayers paying up extra taxes on their real estate. I’ve had discussions with them - taxpayers are talking about their tax bills, so we keep growing City government over and over again.” He said that he would not support it.

On the motion, it was voted on call of the roll, nine (9) yeas, President Ronald Cormier and Councillors Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh; two (2) nays, Councillors James Boone and Nathan Boudreau, to again pass the following Ordinance and send it to its Second and Final Printing, notwithstanding the disapproval of the Mayor:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 160 THEREOF, ENTITLED “OFFICERS AND EMPLOYEES,” ARTICLE II, ASSISTANT CITY CLERK.

Be it ordained by the City Council of the City of Gardner as follows:

Section 1. Section 160-2 of the Code of the City of Gardner is hereby amended to read as follows:

The Office of Assistant City Clerk is established. The City Clerk may appoint two Assistant City Clerks for terms of three years, subject to confirmation by the City Council, who shall be sworn to the faithful performance of duty and, in the absence of the City Clerk, may perform those duties and have the powers and be subject to the






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 REGULAR MEETING OF MARCH 6, 2017
 

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requirements and penalties applicable to that office. Nothing contained herein shall be construed to prevent the reappointment of an Assistant City Clerk upon the expiration of the term of office.

Section 2. Section 160-3 Compensation, is amended to read as follows:

The salary of Assistant City Clerk shall be included in the ordinances designating salaries and wages for the City employees.

Section 3. Effective date.

This ordinance shall become effective on passage and publication as required by law.

In City Council – February 6, 2017

Ordered Printed – February 6, 2017

First Printing – February 10, 2017

Ordinance Passed – February 21, 2017

Presented to Mayor for Approval – February 22, 2017

Disapproved by the Mayor – March 1, 2017

Ordinance Again Passed, Notwithstanding the Mayor's Disapproval – March 6, 2017

FINAL PRINTING – March 10, 2017

### NEW BUSINESS

On a motion by Councillor James Boone and seconded by Councillor Marc Morgan, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to consider New Business.

#### **#9759**

President Cormier informed the Council that he attended the recent meeting of the Traffic Commission and noted that the traffic pattern has been favorably received, but that more time is required to resolve final descriptions.

On a motion by Councillor Paul Tassone and seconded by Councillor Matthew Vance, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to adopt the following Measure:

ESTABLISHING TEMPORARY RULES FOR THE  
REGULATION OF TRAFFIC OBEDIENCE TO  
ISOLATED STOP SIGNS AND ISOLATED YIELD SIGN  
SOUTH MAIN STREET  
NINETY-DAY (90) TRIAL PERIOD COMMENCING MARCH 6, 2017




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 REGULAR MEETING OF MARCH 6, 2017
 

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**VOTED:** To authorize obedience to isolated STOP signs (§600-54 of the Code of the City of Gardner), as follows:

| <b>Stop Street</b> | <b>Direction of Travel</b> | <b>For Traffic Entering</b> |
|--------------------|----------------------------|-----------------------------|
| South Main Street  | Southbound                 | Kendall Street              |
| South Main Street  | Westbound                  | Travers Street              |

To temporarily suspend obedience to isolated Yield Signs (§600-55 of the Code of the City of Gardner), as follows:

| <b>Yield Street</b> | <b>Direction of Travel</b> | <b>At Intersection of</b> |
|---------------------|----------------------------|---------------------------|
| South Main Street   | Southbound                 | Kendall Street            |

Presented to Mayor for Approval – March 7, 2017

Approved – March 16, 2017

MARK P. HAWKE, Mayor

### ANNOUNCEMENTS AND COMMENTS

#### Charter Review

Councillor Paul Tassone stated that he “understands where Councillor Vance and others are coming from with respect to the Charter,” adding “I truly believe that we need to do our due diligence and the Mayor needs to understand that what we presented is what we presented, and [to] give us a better explanation and we will talk about it in the future.”

#### Tri-City Council Dinner

President Ronald Cormier announced that the Cities of Fitchburg, Gardner, and Leominster are planning a Tri-City Council Dinner on Thursday, April 20, 2017 at The Fay Club in Fitchburg. He said that the dinner affords Councillors from the three cities an opportunity to share ideas and to address common problems. He asked that Councillors notify the City Clerk if they plan to attend.

#### Holy Family Academy Student Government Week Programs

President Ronald Cormier announced that the annual Holy Family Academy (formerly Holy Rosary School) Student Government Day Assembly will be held on Wednesday, March 22 at 9:15 a.m. in the Church Hall. Students will be coming to City Hall on Thursday, March 23 to meet with their “counterparts” for a municipal government/civics learning visit. On March 20 at 10:00 a.m., the students will be conducting a “Mock Council Meeting” in the City Council Chamber.

REGULAR MEETING OF MARCH 6, 2017

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**DPW “Pothole Patrol”**

Councillors commended the DPW’s Pothole Patrol and Councillor Morgan highlighted the fine work that the DPW has been doing. Councillor Johnson added that the City’s website has a new feature where pictures of pothole may be posted.

**CLOSING PRAYER**

President Cormier led the Council in the Closing Prayer.

**ADJOURNMENT**

On a motion by Councillor Nathan Boudreau and seconded by Councillor James Johnson, it was voted viva voce, eleven (11) yeas, President Ronald Cormier and Councillors James Boone, Nathan Boudreau, Craig Cormier, Scott Graves, Karen Hardern, James Johnson, Marc Morgan, Paul Tassone, Matthew Vance, and James Walsh, to adjourn at 8:16 o’clock p.m.

**Accepted by the City Council:**

February 28, 2017

Commonwealth of Massachusetts

RECEIVED

Worcester County

2017 FEB 28 5 01 44 City of Gardner

CITY CLERK'S OFFICE GARDNER MA

CERTIFICATE OF APPOINTMENT

I appoint Duncan Burns to the position of Member, Conservation Commission and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

[Handwritten signature of Mark P. Hawke]

Mark P. Hawke

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
City Clerk

Alan L. Agnelli

Expires: February 28, 2020 \_\_\_\_\_

Worcester, ss., \_\_\_\_\_

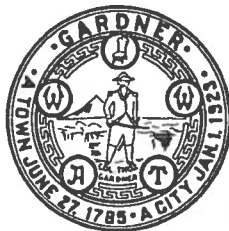
Then personally appeared the above named Duncan Burns and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Conservation Commission according to law and the best of his/her abilities.

Before me,

\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



MARCH 20, 2017

Commonwealth of Massachusetts

Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint JOHN A. OLIVARI to the position of ASSISTANT CITY CLERK and certify that in my opinion he is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

*Alan L. Agnelli*  
Alan L. Agnelli, City Clerk

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Alan L. Agnelli, City Clerk

Expires: March 20, 2020

Worcester, ss., \_\_\_\_\_ 2017

*Then personally appeared the above named John A. Olivari and made oath that he would faithfully and impartially perform the duties of the office of Assistant City Clerk according to law and the best of his abilities.*

*Before me,*

\_\_\_\_\_  
*City Clerk*

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

# ORDINANCE

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1 AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 600  
 2 THEREOF, ENTITLED "VEHICLES AND TRAFFIC," OBEDIENCE TO ISOLATED STOP  
 3 SIGNS AND ISOLATED YIELD SIGNS.

4

5 Be it ordained by the City Council of the City of Gardner as follows:

6

7 Section 1.

8

9 The Code of the City of Gardner is hereby amended by adding to Section 600-54, Obedience to  
 10 Isolated Stop Signs, the following:

11

|    | <b>Stop Street</b> | <b>Direction of Travel</b> | <b>For Traffic Entering</b> |
|----|--------------------|----------------------------|-----------------------------|
| 12 | South Main Street  | Southbound                 | Kendall Street              |
| 13 | South Main Street  | Westbound                  | Travers Street              |
| 14 |                    |                            |                             |

15

16 Section 2.

17

18 The Code of the City of Gardner is further amended by striking from Section 600-55, Obedience  
 19 to Isolated Yield Signs, the following:

20

|    | <b>Yield Street</b> | <b>Direction of Travel</b> | <b>At Intersection of</b> |
|----|---------------------|----------------------------|---------------------------|
| 21 | South Main Street   | Southbound                 | Kendall Street            |
| 22 |                     |                            |                           |

23

24 Section 3.

25

26 This Ordinance shall take effect upon passage and publication as required by law.

9755

AN ORDER APPROPRIATING FROM FREE CASH TO COMMUNITY DEVELOPMENT & PLANNING, ZONING CODE UPDATE ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) from Free Cash to the Community Development and Planning, Zoning Code Update Account.

RECEIVED  
2017 MAR 2 AM 9 16  
CITY CLERK'S OFFICE  
GARDNER MA



**CITY of GARDNER**

**Office of the City Auditor**

John Richard, City Auditor  
95 Pleasant Street, Room 126  
Gardner, MA 01440

Phone: 978-632-1900 ext. 8020 • Fax: 978-630-3778

Email: jrichard@gardner-ma.gov

To: City Council

Re: Money Orders for consideration on March 06, 2017

Listed below are balances in various ledger accounts that pertain to Money Order transfers for your consideration.

These balances are as of March 06, 2017:

|           |                                        |             | <u>Money<br/>Order</u> | <u>Balance</u> |
|-----------|----------------------------------------|-------------|------------------------|----------------|
| Free Cash |                                        | 10000-35400 |                        | \$1,948,274.47 |
|           | To Comm Dev Zoning Code Update Expense | TBA         | \$ 50,000.00           | \$1,898,274.47 |
|           |                                        |             |                        | \$1,898,274.47 |

The Snow & Ice account currently has available (\$156,849.94)  
14421-52210

Sincerely

John Richard  
City Auditor

copies: Mayor  
City Clerk



9755

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



RECEIVED

2017 MAR 2 AM 9 16

CITY CLERK'S OFFICE  
GARDNER MA

February 28, 2017

The Honorable Mark Hawke  
Mayor  
City of Gardner  
95 Pleasant Street  
Gardner, MA 01440

Dear Mayor Hawke,

On behalf of the Planning Board, I am requesting \$50,000 in funds to assist with the rewrite of the City of Gardner Zoning Code. The most recent rewrite of our Zoning Code was completed in January of 2006. Since this time many revisions and additions have taken place in a piecemeal manner. It has been highly recommended by both the Planning Board and Building Commissioner that the document be recodified and updated to improve organization and consistency with new regulations and case law along with making the document more user friendly for the general public.

In November of 2016 I issued a Scope of Service to three consulting firms, RKG Associates, BSC Group, and Harriman. I have received one response to this request from BSC Group in the amount of \$46,750.00. I have included a 7% contingency for any unknown costs that may arise, and printing of the final document for a total request of \$50,000.00.

Please feel free to contact me with any questions or if you need additional information.

Thank you in advance for your consideration,

Trevor M. Beauregard  
Director

## BSC Zoning Experience Summary

### Town of Groton

- Wind Energy Bylaw
- Site Plan Review
- Schedule of Use Regulations Re Write
- Off Street Parking
- Dimensional Regulations Update
- Medical Marijuana Regulations
- Town Center Mixed Use Overlay District
- Business District Zoning Rewrite
- Non-Conforming Use Provisions Rewrite

### Town of Needham

- Site Plan Review
- Zoning Bylaw recodification and rewrite
- Flexible Residential Development (cluster)
- Off Street Parking

### Town of Sherborn

- Senior Housing Zoning Bylaw revisions
- Zoning Map Amendment

### City of Taunton

- Bio Medical Zoning Ordinance Revisions

### Town of Bedford

- Zoning Rewrite Graphic Illustrations

### City of Quincy

- Transit Oriented Development Ordinance

We routinely provide zoning/permitting services to public and private clients and serve as Expert Witness on behalf of clients involved in zoning litigation.

### References

Susan Glazer – Former Planning Board Member, Town of Needham 781 910 3888

Michelle Collette – Town Planner, Town of Groton 978 448 1105

Gino Carlucci – Town Planner, Town of Sherborn 508 651 7855

Rob Stevens – City Planner, City of Quincy 617 376 1365

October 27, 2016

Trevor Beauregard, Director  
Department of Community Development and Planning  
115 Pleasant Street  
Gardner, MA Planning e 01440

**RE: Gardner Zoning Ordinance Rewrite**

Dear Trevor:

BSC Group, Inc. (BSC) is pleased to submit this proposal for Planning Services relative to Revisions to the City of Gardner Zoning Ordinance. The proposed services shall include be in accordance with the following Project Approach and Scope. .BSC has prepared this proposal based upon the following understanding of your needs and circumstances:

## Project Approach

The City of Gardner (the City) seeks professional services to recodify and update the Gardner Zoning Ordinance. The City has experienced growth pressures and has made numerous amendments to the Zoning Ordinance to manage growth in accordance with local preference and the best available zoning practices. However, as these amendments have occurred piecemeal over a period of time, the Zoning Ordinance has evolved in an incremental fashion that has created duplication, inconsistencies, and organizational inefficiencies. Additionally, there have been a number of recent planning initiatives undertaken by the City that require regulatory action for implementation.

To that end, the City seeks to make revisions to the Gardner Zoning Ordinance to address the above concerns.

In order to remedy organizational inefficiencies and consolidate regulatory provisions a minor recodification of the Zoning Ordinance is proposed. The re-codification will address the organizational and formatting issues and consolidate redundancies. It will result in a user friendly document that is less subject to misinterpretation. A re-codification is a reorganization of the existing zoning provisions without any significant regulatory changes.

Second, specific regulatory amendments will be developed to implement the goals and vision articulated in recent planning efforts, better coordinated zoning review and administration, and address issues that have been identified during the Zoning Rewrite Process. As these amendments may involve qualitative changes to the regulatory provisions, a robust public engagement process will help to shape this effort.

33 Waldo Street  
Worcester, MA 01608

Tel: 508-792-4500  
800-288-8123

[www.bscgroup.com](http://www.bscgroup.com)

Engineers

Environmental  
Scientists

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Planners

Surveyors

## Project Scope

### 1. Overall Tasks

#### 1.1 Zoning Rewrite Committee/Meetings/ Public Engagement

It is recommended a Zoning Rewrite Committee be established comprised of zoning users (Building Commissioner, Planning Director, Planning Board Member, Zoning Board of Appeals Member, City Council Member). As part of initial responsibility in working with the Committee the BSC Group (Consultant) will attend a kick off meeting with the Committee to finalize the work program and project schedule, to prepare a Study Outline that provides a straightforward overview of the zoning rewrite process and the sequence of issues/topics to be studied by the Committee. The objective of the Study Outline will be to provide the Committee, other public officials, and the general public an understanding of the scope and sequencing of the study and thereby assist in maximizing the input of all stakeholders and interested parties. The Committee will provide the Consultant input and feedback from those who administer, interpret, or are otherwise involved or affected, based on their respective experience with the Zoning Ordinance.

During Phase 1, as the Re-codification process is of an administrative, procedural and organizational nature, the Consultants will interact predominately with the Committee with periodic working sessions to review work products. A Public Hearing before the Planning Board is required by Massachusetts General Laws Chapter 40A Section 5. The consultant shall attend and prepare supporting material for the Planning Board Public Hearing including summaries, charts and diagrams as required.

During Phase 2 the Consultant, as guided by the Committee, will undertake the drafting of proposed revisions to the recently re-codified Zoning Ordinance. As these revisions will involve changes to the regulatory provisions, and Zoning Map an on-going public engagement process is proposed to provide citizens, property owners, and other stakeholders an update on specific amendments and to solicit input and feedback. As with any Zoning initiative, public engagement is a critical factor in securing approval by the City Council where a super majority of two thirds is required for adoption. If there are issues it is better to identify and address them in advance of City Council consideration.

#### 1.2 Understanding Current Zoning/ Research and Analysis

The Consultant has reviewed the existing zoning bylaw and the amendments since 2004. Further, the Consultant prepared and is familiar with the Downtown and Mill Street Corridor Urban Renewal Plans. Moreover, we are cognizant of the need to use said plans in the development of the proposed zoning amendments. Additionally, the Consultants plans to reach out to Zoning Stakeholders (public officials and Boards, frequent petitioners, and other “zoning users” who administer, interpret, or are otherwise involved with the Zoning

Ordinance to identify inconsistencies, redundancies, deficiencies, the need for clarification, and other issues encountered. With over 30 years' experience drafting amending, reviewing and interpreting zoning by-laws and ordinances, the Consultant will provide the City with best practices expertise in land use regulation.

### **1.3 Required Public Meetings**

As part of the project process the Consultant shall work with the Committee in presentation (s) to the Planning Board and City Council to address any amendments made during said review. Similarly, we will work with the Client at the mandated City Council and Planning Board Public Hearings to secure adoption of any and/or all recommendations.

### **1.4 Working Drafts.**

All working drafts will be prepared electronically as well as in hard copy and based on discussions with the Committee. All documents for review will be submitted prior to the scheduled review meeting.

## **2.0 Specific Tasks**

### **2.1 Reformatting/Recodification**

To insure a more user friendly document for the general public and City officials the reformatting task will commence with initial interviews with all appropriate zoning stakeholders, as directed by the Committee.

Based on said interviews and the experience of the Consultant a number of organizational format recommendations will be presented to the Committee for review, discussion and selection. As part of the reformatting task we will provide examples of various forms of zoning tables and matrices for committee review. Further, we will explore with the Committee the use of graphic representations of various types of zoning regulations that can be made part of the zoning bylaws or a separate explanatory guideline.

Using the study outline and selected reformatting protocols and all appropriated adopted plans we will proceed to the section by section review of the zoning bylaws.

### **2.2 Noted Zoning Tasks/Zoning Amendments**

This task will involve amendments to the Zoning Ordinance that involve changes of a regulatory nature. The Consultant proposes to examine every section of the Zoning Bylaw using a review, initial approval and final review process. Essentially, we will examine every component of the Zoning Bylaw and based on committee comments, comments from all interested parties, and our own experience we will prepare detailed review documents for committee review and decision. After initial approval of a particular section/ issue we will set said section/issue aside and repeat the review and decision making process for the next

portion of the bylaw. Once completed, the initially approved items will be revisited as a comprehensive whole for purposes of further refinement and overall document consistency.

### **2.3 Open Space/Building Coverage**

We note that the City wishes to examine the Dimensional standards in general and the Lot Coverage /Open Space requirements in detail. This may also involve the introduction of floor area ratios (FAR)

### **2.4 “Green Zoning”**

Our approach to including low impact development (LID) and green sustainable technologies as part of the revised bylaw is to prepare a workshop/study session with the Committee to illustrate the various options and methodologies that are currently available. Given the rapidly evolving nature and meaning of sustainable technologies it will be our objective to not only include said requirements where practical but to insure as much as possible that we do not preclude new approaches, without having to continually amend the zoning bylaw. The Consultants have experience in wind energy and solar photovoltaic zoning techniques. Additionally, BSC recently assisted the Devens Enterprise Commission in upgrading its Stormwater Management Regulations. Additional “Green Zoning” measures may include electric recharge stations as utility companies are currently introducing these facilities in many municipalities.

### **2.5 Definitions**

The current Zoning Ordinance has a unique feature where all terms which are defined are highlighted in bold throughout the text. This allows the user to refer to the Definitions Section. The definitions will be examined and assessed in terms of ease of understanding. The Committee shall identify any definitions that need updating or clarification based on past experience in interpreting and administering the Ordinance. Definitions that have been placed on other new sections of the Ordinance shall be consolidated into the Definition Section

### **2.6 Lot Shape**

Lot shape regulation is most commonly accomplished in the form of mathematical formulas or by geometric shape factors. Both are intended to preclude gerrymandered lot shapes and innovative ways to circumvent the Subdivision Control Law. However, lot shape requirements if not properly crafted can thwart site design and building placement. As part of our effort to insure that future residential lots do not have unconventional shapes we will not only provide the detailed language for Committee review and adoption but also provide graphic representation of permitted and not-permitted residential lot configurations. Given the Committee’s decision said graphic representations may or may not be included in the amended zoning bylaw.

## **2.7 Schedule of Use Regulations**

The Consultant will review all existing commercial zones, industrial zones and overlay districts relative to operational efficiency and effectiveness, development capacity, and scale in addition to examining possible consolidation of said districts or the need for additional districts. Further, an objective of the Consultant will be protection of residential qualities where commercial/ industrial uses abut. This effort will focus on all aspects of zoning i.e. buffers, use, density, intensity, scale, and visual impact.

In addition, the Consultant will provide the Committee with an overview of the fiscal implications of existing commercial/ industrial zoning as a means of providing a comprehensive examination of all the aspects of commercial/ industrial zoning and any potential amendments to be considered by the committee.

## **2.8 Off Street Parking Requirements**

Existing parking requirements will be evaluated with respect to design and minimum space requirements for various use types. Maximum parking space requirements will also be examined in addition to provisions for waivers in certain instances.

## **2.9 Non-Conforming Uses.**

Our review of non-conforming use regulations and procedures will require meetings with the Zoning Board of Appeals (ZBA) to ascertain their concerns and suggestions regarding both use and dimensional non-conformance. Based their suggestions and our experience and review, we will generate a series of recommendations to the Committee. Given that in large part the non-conforming regulations in local bylaws must conform to Chapter 40A our objective will be to make the non-conforming section of the amended bylaw as clear and understandable as possible. The recent Massachusetts Supreme Judicial Court decision, Gale vs. City of Gloucester also raises certain issues relative to nonconformity as it relates to single family uses. To that end our organization of said section will likely include graphic representations during committee review sessions and depending on Committee decisions, the inclusion of illustrations in the bylaw or support document.

## **2.10 Special Permit and Site Plan Review**

Similar to our review procedure with the ZBA regarding non-conformance issues we will work with all parties that have input into the special permit and or site plan review process regarding their experience and issues. As a supplement to said reviews we will add our experience with the various approaches found regionally in order to present the Committee with a comprehensive set of options to address the concerns of all parties. As part of the Committee review process we will present methods, for Committee discussion, that allow for abbreviated and full site plan review depending on the nature of the project.

### **2.11 Zoning Map Changes.**

While it is important for the Consultant and the Committee to understand the problems and opportunities relative to the zoning map, it is our intent to address map issues after the Committee has completed or substantially completed and its review with recommendations to the new zoning text. In that manner any map changes will be correlated with the Committee's zoning recommendations. BSC will assist the Committee in assessing the underlying carrying capacity and context to support various land uses and development intensities

### **2.12 Signs**

The Consultant shall review and critique the sign regulations in the existing Ordinance. New or modified regulations recommendations will be prepared using current best practices and are in conformance with the ruling in *Reed v Town of Gilbert* 135 S ct. 2218 (2015) (BJS). If appropriate, the Consultant may recommend permitting strategies for signs.

#### ***Deliverables:***

***1 Working Draft of Zoning Ordinance***

#### ***Anticipated Meetings:***

***3 Working Committee meetings***

***1 Planning Board presentation and working session***

***1 Public Meeting/Workshop***

## **3.0 Final Zoning Ordinance And Map Amendment For Public Hearing And City Council Approval**

The selected consultant shall address all feedback received on the draft by-laws and map and incorporate any revisions as necessary. The final draft zoning ordinance shall be presented at a joint meeting of the Planning Board and the Working Committee for final approval.

#### ***Deliverables:***

***Final zoning ordinance for City Council***

***Final zoning map amendments***

#### ***Anticipated Meetings:***

***1 joint Planning Board/Working Committee meeting***

***1 Public Meeting/Workshop***

***1 City Council Public Hearing***



#### 4.0 Fee For Services

BSC has estimated a budget of Forty-six thousand seven hundred fifty (46,750.00) Dollars inclusive of any and all direct reimbursable expenses for the services described herein. BSC's estimated budget for proposed services shall not be construed to be a not-to-exceed amount by line item or in the aggregate. The Company shall inform the Client as soon as practical if it becomes necessary to exceed the budget in order to perform all proposed and additional services required. BSC will not exceed the estimated budget without mutual agreement with Client.

Sincerely,

BSC GROUP, INC.

A handwritten signature in cursive script that reads "Russell J. Burke".

Russell J. Burke, AICP  
Director of Planning