

PRESIDENT
Scott J. Graves, Esq.

COUNCILLORS AT LARGE
James S. Boone
Craig R. Cormier
Ronald F. Cormier
Edward A. Gravel
Scott J. Graves, Esq.
Christine A. Johnson

WARD 1 COUNCILLOR
James M. Walsh, Esq.

WARD 2 COUNCILLOR
Elizabeth J. Kazinskas

WARD 3 COUNCILLOR
Nathan R. Boudreau

WARD 4 COUNCILLOR
Karen G. Hardern

WARD 5 COUNCILLOR
James D. Johnson

CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY COUNCIL



May 14, 2018

FINANCE COMMITTEE MEETING NOTICE

Date: Wednesday, May 16, 2018
Time: 12:00 p.m.
Location: City Council Chamber, Room 219, City Hall

ANNOUNCEMENT - 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 referenced or used during the meeting must be submitted in duplicate to the Chair, pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

SCHEDULE OF BUSINESS
(Agenda attached)

1. Acceptance/Corrections to Minutes of Prior Meeting(s).
2. Budget and Orders (Money orders, loan orders, revolving funds, other financial).
3. Appointments, vacancies and other personnel matters.
4. Ordinances and Acceptance of General Laws and Special Acts.
5. Authorizations Required by Statute (Contracts, Election Orders, Grants, etc.).
6. Land Acceptance, Disposal, Easements, etc.
7. Claims, Legal, Rules and Salaries.
8. Departmental Management and organizational matters.
9. Report from the Mayor on the State of the City.

NOTICE: The listing of Agenda items are those reasonably anticipated by the Chairman which may 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.

CITY COUNCIL OF GARDNER

Scott J. Graves

PRESIDENT SCOTT J. GRAVES, ESQ.
Chairman, Finance Committee

**CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE MEETING
Wednesday – May 16, 2018 – 12:00 PM
City Council Chamber - City Hall**

AGENDA

CALL TO ORDER

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.

- 1-1 Review and Approval of the May 2, 2018 Meeting Minutes.
- 2-1 An Order Appropriating \$157,875.00 from Free Cash to Waterford Street School Feasibility – Design and Engineering Account.
- 2-2 An Order Appropriating \$200,000.00 from Free Cash to Principal Inside Debt.
- 2-3 An Order Appropriating \$415,000.00 from Free Cash to Snow and Ice Removal.
- 3-1 A Measure Authorizing an Exemption for Edward Tonet under G.L. c. 268A, § 20(b), Financial Interest in a Municipal Contract, Personal Services, Non-elected Compensated Municipal Employee, School Department Assistant Facilities Director.
- 3-2 A Measure Confirming the Mayor’s Appointment of Debra Pond to Member, Disability Commission, for term expiring May 8, 2021.
- 4-1 An Ordinance to Amend the Code of the City of Gardner by Adding New Chapter 295, to Be Entitled “Community Bandstand Committee.” *(Continued from 5/2/2018).*

ADJOURNMENT

Items listed on the Agenda are those reasonably anticipated by the Chair 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.

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MAY 2, 2018

Finance Committee Members present were Council President Scott Graves and Councillor Ronald Cormier. Councillor James Walsh was absent.

Other Officials Participating: Mayor Mark Hawke; City Auditor John Richard; and, City Clerk Alan Agnelli.

The meeting was called to order by Council President Scott Graves at 12:00 p.m. in the City Council Chamber, Room 219, City Hall.

President Graves asked if anyone present planned to record the meeting, in accordance with the requirements of the Open Meeting Law, as follows:

Any person may make a video or audio recording of the open session of this meeting so long as it does not interfere with the conduct of the meeting. All documents and exhibits used or referenced at this meeting shall be submitted in duplicate to the City Clerk, as they become part of the minutes of the meeting. Is there anyone present who will be recording this meeting?

No one responded.

1-1 Reading and Approval of Minutes of Prior Meeting(s).

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to approve the Minutes of the April 11, 2018 Meeting, as printed.

2-1 A Measure Authorizing Prior Year Salary Expenditures.

City Auditor John Richard informed the Committee that the paperwork for the DPW salary adjustments was not processed in a timely manner and that the payroll sheets for the City Hall Maintenance contained an error. He said that the employee worked on a Sunday and should have been paid double time.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to recommend that the City Council authorize payment of prior year DPW and City Hall Maintenance Salary Expenditure Accounts for prior years, as follows:

FY2017	DPW Salary Account	\$795.35
FY2015-FY2017	City Hall Maint. Sal Account	\$323.85

2-2 An Order Authorizing the City to Borrow a Sum of Money for Watkins Field Improvements.

The Mayor informed the Committee that this issue has been through the City Council three times – as part of the Capital Improvement Plan; funding for the Feasibility Study; and, the \$346,000 Free Cash appropriation in December. He said that he is awaiting an estimate from Tighe & Bond, but the actual cost will not be known until

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MAY 2, 2018

the bids come in and that the plans and specifications should be completed by the end of this week. He said that he anticipates that filed sub-bids will take two weeks, another 2 weeks for the general bids, for about 5 to 6 weeks total. He said that he anticipates that construction could start in mid-June and that the project would be substantially complete by mid-September, particularly the stands and fields.

Based on the Mayor's estimates, Councillor Ronald Cormier noted that the entire project should be completed by the end of the construction season.

Mayor Hawke stated that at this time, he is uncertain of the project's estimate, but suggested "around \$3½ million." He said that along with the recently approved \$2.060M Capital Improvement borrowing authorization, the City could potentially pay off both within the next five years through a combination of bond anticipation notes and then roll it into a bond later. He added that the only other general fund debt is for the Police Station and that the City "would maintain debt balance" when the new school bond comes on-line.

Councillor James Walsh stated that if the City Council does not receive the amount of the borrowing by the meeting, then the Committee should recommend that the Loan Order be referred back to the Finance Committee for further study and report.

Councillor Ronald Cormier moved that the Finance Committee recommend that the City Council pass the Loan Order, subject to receiving the Loan amount; other, the Order be referred back to the Finance Committee for further study and report.

ORDER:

That the City of Gardner appropriates the sum of _____ Dollars (\$_____) to pay costs of renovating Watkin's Field, and paying costs incidental or related thereto; to meet said appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said sum under M.G.L. Chapter 44, Section 7(1), or any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Councillor James Walsh seconded the motion.

On questioning by President Graves, Mayor Hawke stated that the City uses two different engineering consulting firms for different projects and has pre-negotiated rates with each. He added that the City typically negotiates lower rates upon receipt of the consulting firm's first cost proposal.

On the motion, it was voted to recommend that the City Council pass the Loan Order, subject to receiving the Loan amount; otherwise, the Order be referred back to the Finance Committee for further study and report.

3-1 A Measure Confirming the Mayor's Appointment of Scott Marigliano to the position of Police Officer, Permanent.

The Mayor informed the Committee that the three appointees will replace retired police officers; have completed Police Academy training and field training.

The Mayor noted that Deputy Chief of Police John Bernard will retire at the end of May and that Chief of Police Neil Erickson plans to retire at the end of the calendar year.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to recommend that the City Council confirm the Mayor's Appointment of Scott Marigliano to the position of Police Officer, Permanent.

3-2 A Measure Confirming the Mayor's Appointment of Lucas Paine to the position of Police Officer, Permanent.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to recommend that the City Council confirm the Mayor's Appointment of Lucas Paine to the position of Police Officer, Permanent.

3-3 A Measure Confirming the Mayor's Appointment of Shawn Riggins to the position of Police Officer, Permanent.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to recommend that the City Council confirm the Mayor's Appointment of Shawn Riggins to the position of Police Officer, Permanent.

4-1 An Ordinance to Amend the Code of the City of Gardner by Adding New Chapter 295, to Be Entitled "Community Bandstand Committee." (Continued from 4/11/2018).

Councillor Graves stated that the Committee is awaiting an opinion from the Law with respect to advising the Council as to the best way to handle the dilemma associated with donations being collected by the City without an authorized gift fund.

The Committee agreed to keep AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING NEW CHAPTER 295, TO BE ENTITLED "COMMUNITY BANDSTAND COMMITTEE," on its Agenda.

4-2 An Ordinance to Amend the Code of the City of Gardner, Chapter 45 Thereof, Entitled "City Council," to Add a New Article and Section Providing for Legal Counsel.

President Graves informed the Committee that it has twice heard back in communications from the City Solicitor regarding the proposed Ordinance and that it is time to submit the Ordinance to the Council.

Councillor James Walsh moved to recommend to the City Council to order the following Ordinance to First Printing.

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 45 THEREOF, ENTITLED "CITY COUNCIL," TO ADD A NEW ARTICLE AND SECTION PROVIDING FOR LEGAL COUNSEL.

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

Section 1. Chapter 45 of the Code of the City of Gardner is hereby amended by adding thereto a new Article, to be Article II, and a new section 45-3, to read as follows:

§ 45-3. Legal counsel.

- A. The City Council shall have the authority to retain independent legal counsel of its own selection from time to time by majority vote, and legal counsel shall be a member of the Bar of the Commonwealth of Massachusetts in good standing.
- B. Legal counsel shall assist the City Council in the preparation and formulation of legislation and in the rendering of opinions concerning legal matters, either of a substantive or procedural nature, the provisions of § 140-2 of the Code of the City of Gardner notwithstanding.
- C. Any invoice or charge for payment from said legal counsel shall be paid from the City Council budget.

Section 2. Severability

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses, or part of this ordinance.

Section 3. Effective date.

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

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MAY 2, 2018

Councillor Ronald Cormier seconded the motion.

On the motion, the Mayor stated that the Ordinance made no sense because the City has two attorneys that are available to the Council, adding that he doesn't know of any precedent anywhere.

President Graves state that when he recently asked City Solicitor John Flick about the opioid legislation, Mr. Flick advised him that he [Flick] is personally opposed.

Continuing, President Graves stated that the Law Department cited the City Charter which gives the Council the authority to abolish entire departments.

The Mayor asked what would happen if the City Council's legal counsel disagrees with the City Solicitor.

President Graves stated that sometimes the City Solicitor is wrong.

Councillor Walsh added that the City Solicitor "gives us an opinion, it's not the law."

The Mayor asked how the Council would procure legal counsel, since "only the Mayor can bind the City." He said that if the Council President hires counsel, it is an unenforceable contract, then "we don't have to pay it."

President Graves stated that, in the City Solicitor's opinion concerning Charter provisions, he said that Chapter 30B "trumped the Charter." Councillor Graves also noted that the City Council is not a board, commission, or department like the DPW, but an elected branch of government.

Councillor Walsh noted that in the late 1980's, the City Council engaged the services of Counsel because there was no City Solicitor, as then-Mayor Deveau did not have one. Mr. Walsh said that the reason that the City did not have a City Solicitor is because the City could not pay Kopelman and Paige hourly, since it was a W-2 employee position. He added that Len Kopelman refused to sign the W-9 because he wanted to bill by the hour. Therefore, Councillor Walsh said, there is precedent since the City Council engaged legal services on its own.

The Mayor stated that the City Council could take a stance by not approving the Assistant City Solicitor and added that the City has two attorneys that the Council is free to use, both highly-paid lawyers.

President Graves stated, "In the future when there is another City Solicitor, and everyone agrees that the legal opinion is wrong; then what does the City Council do at that time?"

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MAY 2, 2018

Councillor Walsh added that the adoption of the City Council Legal Counsel Ordinance would provide formality to the situation.

Directing a question to the Mayor, President Graves asked, “You have to entertain the notion that your lawyer could be wrong?” He then cited his case with the City concerning the EMS Service Zone Plan and added that “it is not foolishness to say that another attorney is wrong. Then who is right? A Court of law would then decide.”

On the motion, it was voted unanimously to recommend that the Ordinance be sent to First Printing.

ADJOURNMENT

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, it was voted to adjourn at 12:33 p.m.

City of Gardner, *Executive Department*

Mark Hawke, Mayor

RECEIVED



2018 MAY 14 AM 10:26

CITY CLERK'S OFFICE
GARDNER, MA

May 14, 2018

Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash to Waterford Street School Feasibility Study

Dear President Graves and Councilors,

As we continue through the process with the Massachusetts School Building Authority (MSBA), we will need to fund certain items. The mandated feasibility study is one of those items at a cost of \$750,000. Our MSBA reimbursement rate is 78.95% so that leaves our share at \$157,875.

Respectfully,

Mark Hawke
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO WATERFORD STREET SCHOOL FEASIBILITY – DESIGN AND ENGINEERING ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of One Hundred Fifty-Seven Thousand Eight Hundred Seventy Five Dollars and No Cents (\$157,875.00) from Free Cash to Waterford Street School Feasibility – Design and Engineering Account.

RECEIVED

2018 MAY 14 AM 10:26

CITY CLERK'S OFFICE
GARDNER, MA

City of Gardner, *Executive Department*

Mark Hawke, Mayor

RECEIVED

2018 MAY 14 AM 10:26

CITY CLERK'S OFFICE
GARDNER, MA



May 14, 2018

Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash to Principal Inside Debt

Dear President Graves and Councilors,

In order to pay off our portion of the Department of Public Works building project, we have split our payment into two (2) portions. The attached money order for \$200,000 and \$125,000 which will be included in the FY 19 Budget.

Respectfully,

Mark Hawke
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO PRINCIPAL INSIDE DEBT.

ORDERED:

That there be and is hereby appropriated the sum of Two Hundred Thousand Dollars and No Cents (\$200,000.00) from Free Cash to Principal Inside Debt.

RECEIVED
2018 MAY 14 AM 10:26
CITY CLERK'S OFFICE
GARDNER, MA

City of Gardner, *Executive Department*



Mark Hawke, Mayor

RECEIVED

2018 MAY 14 AM 10:38

CITY CLERK'S OFFICE
GARDNER, MA

May 14, 2018

Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RE: Free Cash to Snow & Ice

Dear President Graves and Councilors,

The attached money order will cover the shortfall in the Snow & Ice account.

Respectfully,

Mark Hawke
Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO SNOW AND ICE
REMOVAL.

ORDERED:

That there be and is hereby appropriated the sum of Four Hundred Fifteen
Thousand Dollars and No Cents (\$415,000.00) from Free Cash to Snow and Ice
Removal.

RECEIVED

2018 MAY 14 AM 10:38

CITY CLERK'S OFFICE
GARDNER, MA

APPROVAL OF EXEMPTION PURSUANT TO G.L. C.268A, §20(b)
FINANCIAL INTEREST OF EDWARD TONET
CONTRACT FOR ASSISTANT FACILITIES DIRECTOR

VOTE: To approve an Exemption pursuant to G.L. C. 268A, §20(b) in the Matter of a Financial Interest by Edward Tonet for a Contract for School Department Assistant Facilities Director.

**DISCLOSURE BY MUNICIPAL EMPLOYEE
OF FINANCIAL INTEREST IN A MUNICIPAL CONTRACT
AS REQUIRED BY G. L. c. 268A, § 20(b)**

RECEIVED

2018 MAY -7 PM 2:56

MUNICIPAL EMPLOYEE INFORMATION	
Name of municipal employee:	Edward Tonet
Title/ Position	Assistant Facilities Director
Fill in this box if it applies to you.	If you are a municipal employee because a municipal agency has contracted with your company or organization, please provide the name and address of the company or organization.
Agency/ Department	City of Gardner School Department
Agency Address	70 Waterford Street, Gardner, MA 01440
Office phone:	(978) 632-1000
Office e-mail:	
	Check one: <input type="checkbox"/> Elected or <input checked="" type="checkbox"/> Non-elected
Starting date as a municipal employee.	December 2, 2014 as City of Gardner Plumbing Inspector; 08/07/2017 as School Department Assistant Facilities Director.
BOX # 1 Select either STATEMENT #1 or STATEMENT #2. Write an X beside your financial interest.	<p>ELECTED MUNICIPAL EMPLOYEE</p> <p>I am an elected municipal employee.</p> <p><input type="checkbox"/> STATEMENT #1: I had one of the following financial interests in a contract made by a municipal agency before I was elected to my municipal employee position. I will continue to have this financial interest in a municipal contract. OR</p> <p><input type="checkbox"/> STATEMENT #2: I will have a new financial interest in a contract made by a municipal agency.</p> <p>My financial interest in a municipal contract is:</p> <p><input type="checkbox"/> I have a non-elected, compensated municipal employee position.</p> <p><input type="checkbox"/> A municipal agency has a contract with me.</p> <p><input type="checkbox"/> I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization.</p> <p><input type="checkbox"/> I work for a company or organization that has a contract with a municipal agency, and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the city or town has contracted for my services in particular.</p>
BOX # 2 Select either STATEMENT #1 or STATEMENT #2.	<p>NON-ELECTED, COMPENSATED MUNICIPAL EMPLOYEE</p> <p>I am a non-elected municipal employee.</p> <p><input type="checkbox"/> STATEMENT # 1: I had one of the following financial interests in a contract made by a municipal agency before I took a position as a non-elected municipal employee. I will continue to have this financial interest in a municipal contract.</p>

<p>Write an X beside your financial interest.</p>	<p>My financial interest in a municipal contract is:</p> <p><input type="checkbox"/> A municipal agency has a contract with me, but not an employment contract.</p> <p><input type="checkbox"/> I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization.</p> <p>-- OR --</p> <p><input type="checkbox"/> STATEMENT # 2: I will have a new financial interest in a contract made by a municipal agency.</p> <p>My financial interest in a municipal contract is:</p> <p><input checked="" type="checkbox"/> I have a non-elected, compensated municipal employee position.</p> <p><input checked="" type="checkbox"/> A municipal agency has a contract with me.</p> <p><input type="checkbox"/> I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization.</p> <p><input type="checkbox"/> I work for a company or organization that has a contract with a municipal agency, and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the city or town has contracted for my services in particular.</p>
<p>FINANCIAL INTEREST IN A MUNICIPAL CONTRACT</p>	
<p>Name and address of municipal agency that made the contract</p>	<p>City of Gardner School Department 70 Waterford Street Gardner, MA 01440</p>
<p>Please put in an X to confirm these facts.</p>	<p>"My Municipal Agency" is the municipal agency that I serve as a municipal employee.</p> <p>The "contracting agency" is the municipal agency that made the contract.</p> <p><input type="checkbox"/> My Municipal Agency is not the contracting agency.</p> <p><input checked="" type="checkbox"/> My Municipal Agency does not regulate the activities of the contracting agency.</p> <p><input checked="" type="checkbox"/> In my work for my Municipal Agency, I do not participate in or have official responsibility for any of the activities of the contracting agency.</p> <p><input type="checkbox"/> The contract was made after public notice or through competitive bidding.</p>
<p>FILL IN THIS BOX OR THE BOX BELOW</p>	<p>ANSWER THE QUESTION IN THIS BOX IF THE CONTRACT IS BETWEEN THE CITY OR TOWN AND YOU.</p> <p>- Please explain what the contract is for.</p> <p>To provide, as needed, alternate plumbing inspection services for the City of Gardner.</p>
<p>FILL IN THIS BOX OR THE BOX ABOVE</p>	<p>ANSWER THE QUESTIONS IN THIS BOX IF THE CONTRACT IS BETWEEN THE CITY OR TOWN AND ANOTHER PERSON OR ENTITY.</p> <p>- Please identify the person or entity that has the contract with the municipal agency.</p> <p>- What is your relationship to the person or entity?</p> <p>- What is the contract for?</p>

What is your financial interest in the municipal contract?	- Please explain the financial interest and include the dollar amount if you know it. I will receive hourly compensation for each hour worked as an alternate Plumbing Inspector. Hours will be worked after regular daily schedule of work and compensation will be paid as overtime.
Date when you acquired a financial interest	05/08/2018
What is the financial interest of your immediate family?	- Please explain the financial interest and include the dollar amount if you know it. None.
Date when your immediate family acquired a financial interest	N/A
Write an X to confirm each statement.	FOR A CONTRACT FOR PERSONAL SERVICES – Answer the questions in this box ONLY if you will have a contract for personal services with a municipal agency (i.e., you will do work directly for the contracting agency). I will have a contract with a municipal agency to provide personal services. <input checked="" type="checkbox"/> The services will be provided outside my normal working hours as a municipal employee. <input checked="" type="checkbox"/> The services are not required as part of my regular duties as a municipal employee. <input checked="" type="checkbox"/> For these services, I will be compensated for not more than 500 hours during a calendar year.
Employee signature:	<i>Edmond J. Jones</i>
Date:	5-7-18

Attach additional pages if necessary.


NOT A PERSONAL SERVICES CONTRACT -- File disclosure with the city or town clerk.

SEE CERTIFICATION AND APPROVAL REQUIRED FOR PERSONAL SERVICES CONTRACTS, BELOW.

FOR CONTRACTS FOR PERSONAL SERVICES ONLY:

If you are disclosing a financial interest in a contract for personal services with a municipal agency, you must file the Certification below signed by the head of the contracting agency, and you must get approval of the exemption from the city council, board of aldermen, board of selectmen or town council.

CERTIFICATION BY HEAD OF CONTRACTING AGENCY

	INFORMATION ABOUT HEAD OF CONTRACTING AGENCY
Name:	Mark Hawke
Title/ Position	Mayor
Municipal Agency:	City of Gardner
Agency Address:	95 Pleasant Street, Gardner, MA 01440
Office Phone:	(978) 630-1490
	CERTIFICATION
	I have received a disclosure under G.L. c. 268A, § 20(b) from a municipal employee who seeks to provide personal services to my municipal agency, identified above. I certify that no employee of my agency is available to perform the services described above as part of his or her regular duties.
Signature:	
Date:	5/31/18

**APPROVAL BY CITY COUNCIL, BOARD OF ALDERMEN,
BOARD OF SELECTMEN OR TOWN COUNCIL**

	INFORMATION ABOUT APPROVING BODY
Name:	Scott Graves, Esq.
Title/ Position	President, Gardner City Council
Agency Address:	95 Pleasant Street Gardner, MA 01440
Office Phone:	(978) 630-4058-
	APPROVAL
	I have received a disclosure under G.L. c. 268A, § 20(b) from a municipal employee who seeks to provide personal services to a municipal agency, identified above. The exemption under § 20(b) is approved.
Signature:	On behalf of the Council or Board, I sign this approval.
Date:	

Attach additional pages if necessary.
File disclosure, Certification and Approval with the city or town clerk.

May 8, 2018

RECEIVED

2018 MAY -8 PM 4:03

Commonwealth of Massachusetts

Worcester County
CITY CLERK
GARDNER, MA

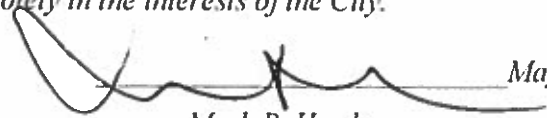
City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Debra Pond to the position of Member, Disability Commission, and I certify

1 Main Street Ashburnham, MA

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.


Mayor
Mark P. Hawke

Confirmed by City Council _____

City Clerk
Alan L. Agnelli

Expires: May 8, 2021

Worcester, ss., _____

Then personally appeared the above named Debra Pond and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Disability 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 _____

4-1

PRESIDENT
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CITY OF GARDNER
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James D. Johnson

April 17, 2018

Atty. John M. Flick, City Solicitor
City of Gardner Law Department
144 Central Street, Suite 201
Gardner, MA 01440

Re: Bandstand Committee Ordinance

Dear Attorney Flick:

At the April 11, 2018 Finance Committee Meeting, the Committee decided to present to the Legal Department a small dilemma facing the City Council and Finance Committee regarding the Bandstand Committee. The proposed Ordinance is attached for your review.

The Bandstand Committee, as far as anyone can tell, is not a formal municipal committee. This raised various concerns as to fund-raising, liability for events held on municipal property, personal liability of its members, etc. So, our goal is to make the Bandstand Committee a formal City committee (e.g., the Youth Commission, et al) with legal municipal existence.

Instead of creating a stand-alone Bandstand Committee, the Mayor and the Finance Committee Members believe that it would be more appropriate if the Bandstand Committee is formally subsumed under the auspices of the Department of Public Works. We are presenting this to your Department for your assistance as to how this may be accomplished – most likely with your opinion as to how the language of the proposed Ordinance might be revised accordingly.

Atty. John M. Flick, City Solicitor
City of Gardner Law Department
April 17, 2018
Page 2

The Mayor mentioned that the Bandstand Committee could be placed under the domain of the Parks and Recreation branch of the DPW. But, then we grappled with the fact that the City Council reorganized the DPW in 1983 and that the Parks and Recreation is no longer in existence.

Also, neither the Auditor nor anyone else can tell that the Bandstand Committee's donations have ever been approved by the City Council pursuant to M.G.L. c. 44, sec. 53A. So, we also need the Legal Department's input on that.

No one wants to disturb what the Bandstand is doing right now, we just want it properly placed within the governmental gamut, if you will, as a formal and legal City committee or board or commission, etc. We all believed that it would make the most sense to remain within the purview/auspices of the DPW.

Thank you in advance for your attention and assistance in this matter.

Sincerely,



SCOTT J. GRAVES, ESQ.
City Council President

Enclosure

ORDINANCE

1 AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING
2 NEW CHAPTER 295, TO BE ENTITLED "COMMUNITY BANDSTAND COMMITTEE."

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

6 Section 1.

8 The Code of the City of Gardner is hereby amended by adding thereto a new Chapter, to
9 be Chapter 295, Community Bandstand Committee, to read as follows:

11 § 295-1 Committee established; membership; terms of office.

13 A. There shall be established a Community Bandstand Committee for the City of
14 Gardner consisting of not less than five nor more than seven members, legal voters of
15 said City, who shall be appointed by the Mayor, subject to confirmation by the City
16 Council.

18 B. The terms of the first members of said Committee shall be for one, two, or three years
19 and so arranged that the term of 1/3 of the members expires each year, and their
20 successors shall be appointed for terms of three years each. Any member of said
21 Committee may, after a public hearing, if so requested, be removed for cause by the
22 appointing authority. A vacancy occurring otherwise than by expiration of a term
23 shall be filled for the unexpired term in the same manner as an original appointment.

25 C. Before entering the discharge of their duties, the members shall be sworn to the
26 faithful discharge thereof.

28 § 295-2 Officers, meetings and records.

30 The Committee shall meet once annually to organize and elect a Chairperson, Vice
31 Chairperson, Treasurer, and Clerk. The Chairperson of the Committee shall be chosen
32 by a majority vote of said Committee members. The Committee shall hold meetings
33 each month of the year. It shall keep accurate records of its meetings and actions and
34 shall file an annual report.

ORDINANCE

35 § 295-3 Powers and duties.

36

37 The Committee shall have the following powers and duties:

38

39 A. Its purpose shall be to develop and carry out programming and fundraising activities
40 for concerts and other forms of entertainment at Monument Park.

41

42 B. The Committee may appoint such clerks or other employees as it may from time to
43 time require, subject to appropriation of funds therefor.

44

45 C. The Committee may receive gifts of property, both real and personal, in the name of
46 the City, subject to the approval of the City Council, such gifts to be managed and
47 controlled by said Committee for the purposes of this section.

48

49 Section 2. Effective date.

50 This Ordinance shall become effective upon passage and publication as required
51 by law.