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Elizabeth J. Kazinskas

COUNCILLORS AT LARGE
James S. Boone
Craig R. Cormier
Ronald F. Cormier
Scott Joseph Graves, Esq.
Judy A. Mack
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CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY COUNCIL



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CITY CLERK'S OFFICE
GARDNER, MA

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
Aleks Dernalowicz, Esq.

July 27, 2020

FINANCE COMMITTEE MEETING NOTICE

Date: Wednesday, July 29, 2020
Time: 12:00 P.M.
Location: Remotely via Zoom/Broadcast on Gardner YouTube Channel

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

Elizabeth J. Kazinskas

ELIZABETH J. KAZINSKAS

Chair, Finance Committee

**Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Finance Committee will be conducted via remote participation. The audio recording, transcript, or other comprehensive record of proceedings will be posted on the City's website as soon as possible after the meeting.*

**CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE MEETING
Wednesday – July 29, 2020 – 12:00 PM
Remotely via Zoom**

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 June 10, 2020 and June 24, 2020 Meeting Minutes.
- 2-1 An Order Authorizing an FY2021 Continuing Appropriation Budget.
- 3-1 A Measure Confirming the Mayor's Appointment of Alexa Morgan to the position of Police Officer, Permanent.
- 3-2 A Measure Confirming the Mayor's Appointment of Duncan Burns to the position of Member, Conservation Commission, for term expiring July 20, 2023 (*Reappointment*).
- 3-3 A Measure Confirming the Mayor's Appointment of Atty. Ethan Kolodny to the position of Assistant City Solicitor for term expiring January 3, 2021.
- 3-4 A Measure Confirming the Mayor's Appointment of Marcelle S. Cormier, Member, Board of Registrars of Voters, for term expiring April 1, 2021.
- 3-5 A Measure Confirming the Mayor's Appointment of Mario A. Guay, Member, Board of Registrars of Voters, for term expiring April 1, 2022 (*Reappointment*).
- 3-6 A Measure Confirming the Mayor's Appointment of Patricia C. Darby, Member, Board of Registrars of Voters, for term expiring April 1, 2023 (*Reappointment*).
- 3-7 A Measure Confirming the Mayor's Appointments of Election Officers for 2020-2021.
- 5-1 An Order Relative to the September 1, 2020 State Primary and Review/Acceptance of National Guard Armory Poll Siting Impact Report.
- 6-1 A Measure Authorizing an Eighth Amendment to the April 9, 1968 Lease Between the City and Henry Heywood Memorial Hospital (*Ref: Council Calendar No. 10119*).
- 6-2 A Measure Authorizing an Easement Relocation Agreement Between the City of Gardner and Massachusetts Electric Company (*Ref: Finance Committee Agenda Item No. 6-1*).
- 6-3 A Measure Authorizing a Grant of Easement to Massachusetts Electric Company for an "OVERHEAD SYSTEM" and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" at 200 Catherine Street (Gardner High School).

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 JUNE 10, 2020

The Finance Committee meeting was called to order remotely by Council President Elizabeth Kazinskas at 12:00 p.m. Finance Committee Members Councillors Ronald Cormier and James Walsh were also present via Zoom.

President Kazinskas announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Finance Committee will be conducted via remote participation on Zoom. The audio recording, transcript, or other comprehensive record of proceedings will be posted on the City's website as soon as possible after the meeting and the meeting is being broadcast live on Gardner's YouTube Channel.

Also participating remotely were City Auditor John Richard; Fire Chief Richard Ares; Human Resources Director Debra Pond; Community Development and Planning Director Trevor Beauregard; School Business Administrator April Yu; School Director of Facilities Wayne Anderson; Golf Commission Chairman Jeffrey Gallant; City Solicitor Atty. John Flick; Public Works Director Dane Arnold; and, City Clerk Alan Agnelli.

1-1 Reading and Approval of Minutes of Prior Meeting.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to approve the Minutes of the May 18, 2020 Regular Meeting, as printed.

2-1 An Order Appropriating \$275,000.00 from Free Cash to Snow and Ice Removal.

DPW Director Dane Arnold stated that the deficit is about \$272k with a few more bills to arrive and expenses expected to be about \$575k for the year. He added that expenses are \$5k less than FY2019 and \$145k less than FY2018.

City Auditor John Richard concurred, saying that May and June bills haven't arrived and that is the reason for the buffer.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

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

ORDER: That there be and is hereby appropriated the sum of Two Hundred Seventy Five Thousand Dollars and No Cents (\$275,000.00) from Free Cash to Snow and Ice Removal.

2-2 **An Order Appropriating \$32,000.00 from Free Cash to Public Works – Street Lighting Account.**

DPW Director Arnold informed the Committee that the annual average cost for street lighting is \$110k to \$120k and that the City underwent an LED study which was advised that it could reduce costs by \$20k to \$30k annually. He said that at that time, National Grid did not have established rates for the LED, so the City paid the old rates, but now expects a rebate for the overpayment, adding that it could be \$80k.

John Richard said that the rebate, when received, will be applied to the General Fund; however, there is no timeline for receiving the rebate.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO PUBLIC WORKS – STREET LIGHTING.

ORDER: That there be and is hereby appropriated the sum of Thirty Two Thousand and No Cents (\$32,000.00) from Free Cash to Public Works – Street Lighting.

2-3 **An Order Appropriating \$71,000.00 from Free Cash to Fire Department Salaries, Overtime.**

Fire Chief Ares informed the Committee that overtime expenses have exceeded the amount budgeted due to several Firefighter resignations, as well as a Lieutenant (Fire Prevention Officer) who has been out on injured status since September and will be medically retired. The Department has had to backfill the vacant positions due to minimum staffing requirements and minimum staffing includes 7 Firefighters and one Lieutenant on each shift and four pieces of apparatus staffed – the Shift Commander’s car, the Tower, the Engine, and the Rescue vehicle, while two are assigned to the Ambulance.

On questioning by Councillor Walsh, the Chief stated that the Department’s staff is presently short by 1 Lieutenant and 1 Firefighter.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO FIRE – SALARIES AND OVERTIME.

ORDER: That there be and is hereby appropriated the sum of Seventy-One Thousand Dollars and No Cents (\$71,000.00) from Free Cash to Fire Department Salaries/Overtime.

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF JUNE 10, 2020

2-4 **An Order Appropriating \$8,700.00 from Free Cash to Ambulance Department Salaries, Overtime.**

Fire Chief Ares informed the Committee that \$29,075.65 was expended in overtime as the direct result of Firefighter resignations and because of COVID-19, as the EMS Coordinator and Assistant Coordinator were required to deal with the pandemic.

On questioning by Councillor Ronald Cormier, the Chief informed the Committee that some expenses incurred after March 15 may be reimbursable through FEMA at the rate of 75%.

On questioning by Councillor James Walsh, the Chief informed the Committee that ALS billing fees are budgeted under Ambulance operations and that the City's share is based on actual amounts collected for ALS services (see 2-5).

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO AMBULANCE – SALARIES/OVERTIME.

ORDER: That there be and is hereby appropriated the sum of Eight Thousand Seven Hundred Dollars and No Cents (\$8,700.00) from Free Cash to Ambulance Department Salaries/Overtime.

2-5 **An Order Appropriating \$6,800.00 from Free Cash to Ambulance Department Operating Expenses.**

Fire Chief Ares informed the Committee that the deficit is under Professional Services which pays for ALS and billing service. 50% of collections are paid to the ALS Service and 3% for amounts actually collected.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO AMBULANCE – OPERATING EXPENSES.

ORDER: That there be and is hereby appropriated the sum of Six Thousand Eight Hundred Dollars and No Cents (\$6,800.00) from Free Cash to Ambulance Operating Expenses.

2-6 **An Order Appropriating \$10,000.00 from Free Cash to Human Resources Department, Medical Exams Account.**

Human Resources Director Debra Pond informed the Committee that there was a large increase in hiring, particularly in the School Department, and that the account covers

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF JUNE 10, 2020

the cost of all employee testing – pre-placement physicals, regular and random drug testing, Fire and Police Civil Service physicals and psychological testing, and hearing tests for Dispatchers.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO HR MEDICAL EXAMS ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Ten Thousand Dollars and No Cents (\$10,000.00) from Free Cash to the HR Medical Exams Account.

2-7 An Order Appropriating \$17,500.00 from Free Cash to Termination Leave Account.

City Auditor John Richard informed the Committee that \$28k is available in the account; however, 2 employees are retiring by the end of the month and are due \$19k and \$26k respectively, leaving about \$17.5k shortfall.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO TERM LEAVE ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Seventeen Thousand Five Hundred Dollars and No Cents (\$17,500.00) from Free Cash to the Term Leave Account.

2-8 An Order Appropriating \$1,260.00 from Free Cash to Planning Board Communications Account.

Community Development and Planning Director Trevor Beauregard informed the Committee that the budget covers the costs for legal ads associated with special permits, Plan Review, Hearings, etc. and that the fees collected from the applicants are deposited into the General Fund. The fees incorporate the costs of legal ads, he added.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO PLANNING BOARD COMMUNICATIONS ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of One Thousand Two Hundred Sixty Dollars and No Cents (\$1260.00) from Free Cash to the Planning Board Communications Account.

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2-9 An Order Appropriating \$80,853.00 from Free Cash to School E-Rate Expenses Account.

School District Business Administrator April Yu informed the Committee that the E-Rate program reimburses the District for certain expenses related to telecommunications in schools. The reimbursement is deposited in the General Fund (falls to Free Cash), so that the funds must be appropriated to the School Department budget from which telecommunications are expensed

John Richard confirmed that the reimbursement is deposited into the General Fund and “falls to Free Cash” in the next Fiscal Year.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO THE SCHOOL E-RATE EXPENSES ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Eighty Thousand Eight Hundred Fifty-Three Dollars and No Cents (\$80,853.00) from Free Cash to the School E-Rate Expenses Account.

2-10 An Order Rescinding Order No. 12874, An Order Appropriating \$100,000.00 from Golf Enterprise Fund to Golf Indirect Cost Expense.

Golf Commission Chairman Jeffrey Gallant informed the Committee that due to COVID, the Golf Course delayed its season opening until May 11 and when it opened, restrictions were implemented such as 15-minute tee times, which allowed for only 4 Tee times per hour as opposed to 8 tee times. The Commission is anticipating projected revenues to fall below operating expenses, but that the \$90,000 Reserve Account could absorb most of the shortfall.

Councillor Walsh asked for clarification concerning the Commission’s request to rescind the prior Order.

Mr. Gallant stated that indirect costs are \$180,000, so the Commission sees the shortfall due to lost revenues.

John Richard said \$100k appropriated for Golf Course Retained earnings was not used and the next order appropriates \$95,380.00 from Retained Earnings.

Councillor Walsh suggested that the Order is taking back last year’s appropriation for this year’s expenses.

Mr. Richard concurred.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier,

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on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER RESCINDING AN APPROPRIATION ORDER NO. 12874 GOLF INDIRECT COST EXPENSE

ORDER: To rescind the vote taken on June 17, 2019, under Calendar Item #10128, Order No. 12874, ordering that the City of Gardner appropriates the sum of \$100,000 from Golf Enterprise Fund to Golf Indirect Cost Expense, as the funds were not needed.

2-11 An Order Appropriating \$95,380.00 from Golf Enterprise Fund to Golf, Various Expenditures.

Golf Commission Chairman Jeffrey Gallant informed the Committee that the request was explained under 2-10 and that the appropriation would cover anticipated expenses for the remainder of the Fiscal Year.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING A SUM OF MONEY FROM GOLF ENTERPRISE FUND ACCOUNT TO GOLF VARIOUS EXPENDITURES

ORDER: That there be and is hereby appropriated the sum of Ninety-Five Thousand Three Hundred Eighty Dollars and No Cents (\$95,380.00) from Golf Enterprise Fund to Golf Various Expenditures.

2-12 An Order Appropriating \$50,000.00 from Free Cash to Golf Revenue Deficit Account.

Councillor Walsh questioned whether the appropriation would serve as a contingency fund.

Mr. Gallant said that the amount requested is based on the data that the Golf Commission has at this time.

Councillor Walsh said that he was reluctant to recommend a contingency fund for the Golf Course, since he would rather know the actual needs. He questioned if there are plans to transfer the remaining Free Cash to the Stabilization Fund.

John Richard said that it is his recommendation to move the balance to Stabilization.

President Kazinskas suggested that the funds be transferred at a special meeting before the end of the year.

Councillor Walsh added that he would prefer to draw funds from Stabilization, as needed.

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On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to remove the following Order from further consideration:

AN ORDER APPROPRIATING FROM FREE CASH TO GOLF REVENUE DEFICIT ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) from Free Cash to the Golf Revenue Deficit Account.

2-13 Referral from Councillor Graves regarding the FY2021 Budget.

Councillor Graves submitted the following questions:

- 1. With respect to M.G.L. c. 44, sec. 32's option of a "continuing appropriation budget . . . on a month to month basis" for up to 3 months, is that option available to a City with no Elected Mayor?*
- 2. Because the statute places sole and exclusive authority with the Elected Mayor, is this option available to the City when we have no Elected Mayor?*
- 3. If the Acting Mayor were to approve that Section 32 "continuing appropriation budget" (1/12th) authority of an Elected Mayor, would she not, as with any Elected Mayoral authority, need the "e"mergency that Flick has subjectively explicated in various evolutions since his first inception of that topic on November 14, 2019?*
- 4. Given that the statute gives express and unconditional authority to the City Council to prepare and vote the Budget itself whenever the Elected Mayor does not do so within 170 days from Jan. 6, 2020, can there be a Charter Section 32 "e"mergency here? [It seems to me that if there is such an "e"mergency to justify the Acting Mayor's implementation of the continuing appropriation budget (1/12th) option, then that would also give her the authority to submit the FY Budget as well - an "e"mergency is an "e"mergency, after all].*
- 5. The Elected Mayor did not submit the Budget within the 170 days, so the City Council's express and unconditional authority to prepare and vote the Budget is ripe, correct?*

Councillor Walsh stated that he read Councillor Graves' five questions as they relate to Chapter 44, section 32 of the General Laws, the submission and approval of municipal budgets. He said that most of the issues that were raised in the referral are addressed by recently-passed legislation – *Chapter 92 of the Acts of 2020*. He noted that Section 11 extends the time that a Mayor has to submit a budget to the City Council – 60 days beyond the expiration of the Governor's State of Emergency – and also provides for a 1/12th Budget pending submission of the FY2021 full budget. He added that the new Mayor can take office after July 10.

Continuing, Councillor Walsh stated that the question concerning whether the Acting

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Mayor can submit a 1/12th Budget is clear to him, since it is a matter “not admitting of delay” by the Charter. Councillor Walsh continued by saying that “is a decision to be made by the Acting Mayor and to him [Walsh], that it is a better practice to adopt a 1/12th Budget by July and to provide the newly-elected Mayor with an opportunity to submit a Budget because he will have to execute the budget. He suggested that the Minutes of the Meeting should be provided to Councillor Graves as a response to his referral.

Councillor Walsh questioned whether the 1/12th Budget requires Council approval.

City Auditor John Richard replied, saying that the City Charter requires that the Council approve the Budget.

Councillor Walsh questioned whether Chapter 92 changed the requirement, since Section 11 opened “Notwithstanding section 32 of chapter 44 of the General Laws or any other general or special law, charter provision or ordinance to the contrary...”.

Mr. Richard stated that he would look into the question.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to provide the Meeting Minutes and a copy of Chapter 92 of the Acts of 2020 in response to Councillor Graves’ referral.

5-1 A Measure Authorizing a Five-Year Contract Period for On-call Professional Engineering & Environmental Consulting Services.

Community Development and Planning Director Trevor Beauregard informed the Committee that for the past 30 years, RFQs have been issued for on-call engineering and consulting services, as the Department has lots of programs that are carried forward for a number of years and that it is helpful to contractors on on-board year-to-year. The current 5-year contract will expire in August.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Measure ought to pass:

AUTHORIZING FIVE-YEAR CONTRACT PERIOD FOR ON-CALL
PROFESSIONAL ENGINEERING & ENVIRONMENTAL CONSULTING SERVICES

VOTE: To authorize the City to enter into contracts not to exceed five (5) years for On-Call Professional Engineering and Environmental Consulting Services, pursuant to the provisions of Massachusetts General Law, Chapter 30B, section 12 and under the terms outlined in the Purchasing Agent’s letter dated June 3, 2020.

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6-1 **A Measure Authorizing an Eighth Amendment to the April 9, 1968 Lease Between the City and Henry Heywood Memorial Hospital (Ref: Council Calendar No. 10119).**

The Committee postponed action as no new information has been received from Attorney Phillips.

6-2 **A Measure Authorizing an Easement Relocation Agreement Between the City of Gardner and Massachusetts Electric Company (Ref: Finance Committee Agenda No. 6-1).**

The Committee postponed action as no new information has been received from Attorney Phillips.

6-3 **A Measure Authorizing a Grant of Easement to Massachusetts Electric Company for an "OVERHEAD SYSTEM" and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" at 200 Catherine Street (Gardner High School).**

School District Director of Facilities Wayne Anderson requested that action on the proposed Easement be postponed for a month while he works with the City Solicitor on the details.

Councillor Walsh noted that little information was provided – the reason for the project, what is the needed, and what problems does it solve.

Mr. Anderson said that presently, the lines go further into the woods and that squirrels knock out power to the High School, so the lines need to be relocated and that the entire cost will be borne by National Grid.

The Chair decided to keep the measure on the Finance Committee's Agenda. The committee concurred.

GRANT OF EASEMENT

CITY OF GARDNER, a municipal corporation having a mailing address of 95 Pleasant Street, Gardner, Massachusetts 01440, (hereinafter referred to as the Grantor), for consideration of One (\$1.00) dollar, grants to **MASSACHUSETTS ELECTRIC COMPANY**, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, lines to consist of, but not limited to, three (3) poles and one (1) anchor, (which may be erected at different times) with wires and cables strung upon and from the same and all necessary anchors, guys, and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Gardner, Worcester South County, Massachusetts, consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and for the furnishing of electric service to the herein described premises and others, and without limiting the

CITY OF GARDNER, MASSACHUSETTS
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generality of the foregoing, but specifically including the following equipment, namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are located in, through, under, over, across and upon a certain parcel of land situated off the easterly side of Blanchard Street, being more particularly shown as "PARCEL 2" shown on a Plan of Land recorded with the Worcester South County Registry of Deeds in Plan Book 399, Plan 67.

Said "OVERHEAD SYSTEM" is to be installed on Grantor's property, which is located off the easterly side of Blanchard Street, to consist of Pole p9-5, Pole p9-42, Pole P9-41, Pole p9-4 and an anchor to be affixed to Pole p9.

And further, said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) are approximately shown on a sketch entitled: "Exhibit "A" Not Drawn To Scale; The exact location of said facilities to be established by and upon the installation and erection of the facilities thereof.; Easement Sketch For New Poles, Anchors & Overhead Wires At 200 Catherine St, Gardner, Ma (Gardner High School); Date: 05/21/2020; Designer: S.W. Soucy; Work Req# 28733033; nationalgrid," a reduced copy of said sketch is attached hereto as "Exhibit A", copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

Also with the further perpetual right and easement from time to time without further payment therefore to pass and repass over, across and upon said land of the Grantor as is reasonable and necessary in order to renew, replace, repair, remove, add to, maintain, operate, patrol and otherwise change said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantee, its successors and assigns, and to clear and keep cleared the portions and areas of the premises wherein the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are specifically located, as shown on the sketch herein referred to, of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may, in the opinion and judgment of the Grantee, interfere with the efficient and safe operation and maintenance of the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and other related electrical equipment. However, said Grantee, its successors and assigns, will properly backfill said excavation or excavations and restore the surface of the land to as reasonably good condition as said surface was in immediately prior to the excavation or excavations thereof.

If said herein referred to locations as approximately shown on the sketch herein also referred to are unsuitable for the purposes of the Grantee, its successors and assigns,

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then said locations may be changed to areas mutually satisfactory to both the Grantor and the Grantee herein; and further, said newly agreed to locations shall be indicated and shown on the sketch above referred to by proper amendment or amendments thereto. The Grantor, for itself, its successors and assigns, covenant and agrees with the Grantee, for itself, its successors and assigns, that this Grant of Easement and the location of the Overhead System and Underground System may not be changed or modified without the written consent of the Grantee, its successors and assigns, which consent may be withheld by the Grantee in its sole discretion.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within the Grantor's land an "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" for the transmission of intelligence and for the purpose of supplying electric service for the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

It is agreed that the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall remain the property of the Grantee, its successors and assigns, and that the Grantee, its successors and assigns, shall pay all taxes assessed thereon. Grantor agrees that the rights and easement herein granted are for the purpose of providing service to Grantor's property and the further right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

For Grantor's title, see an Order of Taking by the City of Gardner dated June 4, 1974, recorded with the Worcester South District Registry of Deeds Book 5534, Page 255.

7-1 Referral from Councillor Graves regarding Public Records Requests to the City Council.

Councillor Walsh stated that as he reads the referral, it seems to him that Councillor Graves challenges whether the Records Access Officer ("RAO") for the City Council has the authority or whether it is appropriate for that RAO to obtain the assistance and involvement of the Law Department in responding to a particular public records request. "It seems to be the position of Councillor Graves that no such authorization exists and that it isn't appropriate to do so," he said.

Councillor Walsh continued by saying that as one member of the City Council and one member of the Finance Committee, he disagrees with Councillor Graves' position, citing Chapter 66 of the General Laws which governs public records. "There are several aspects of it that persuade me to take a different position from Councillor Graves," he said. He said that he agrees that the RAO for the City Council is the City Clerk, as Sections 6A references appointment of RAOs and Section 10 addresses responding to requests. Both of the sections, he said, say that "the RAO or designee may respond." "It is never inappropriate for a RAO to seek the involvement of the Law Department for any reason that the RAO decides if it is appropriate," he added.

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Continuing, Councillor Walsh said that “the statute itself authorizes the RAO to name a designee – and when the RAO seeks assistance from Law Department [that] is a designation, for purposes of the statute.”

Concluding, Councillor Walsh said that the final position that he has on the matter is “that this is a process is governed by statute and the statute specifically says that is if someone who requests records is dissatisfied with the response, then the remedy to petition the Supervisor of Public Records of the Secretary of State’s Office for redress or for a different result, and ... that is the remedy for someone.” “For the reasons, he stated, “I disagree with Councillor Graves’ position.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to provide a copy of the pertinent section of the Meeting Minutes in response to Councillor Graves’ referral.

ADJOURNMENT

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to adjourn at 1:06 p.m.

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The Finance Committee meeting was called to order remotely by Council President Elizabeth Kazinskas at 5:30 p.m. Finance Committee Members Councillors Ronald Cormier and James Walsh were present via Zoom. Councillors Scott Joseph Graves and Karen Hardern were also present via Zoom.

Also participating remotely via Zoom were City Auditor John Richard; Public Works Director Dane Arnold; and, City Clerk Alan Agnelli.

President Kazinskas announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Finance Committee will be conducted via remote participation on Zoom. The audio recording, transcript, or other comprehensive record of proceedings will be posted on the City's website as soon as possible after the meeting and the meeting is being broadcast live on Gardner's YouTube Channel.

1-1 An Order Appropriating \$40,000.00 from Sewer Surplus to Sewer, Energy and Utilities Expenses.

Public Works Director Dane Arnold noted the following:

- \$40,000 budget shortfall in the account which provides for all utility costs for sewer facilities, pump stations, and the Sewer Department's share of DPW building expenses. Includes NGRID, Unutil, Templeton Light, Comcast, etc.
- FY2020 Budget estimate was short. City assumed control of facilities this year and consulted with Suez to arrive at estimate. City provided with \$240k estimate and City did not follow-up with "low estimate."
- All utility expenses were formerly borne by Suez, which was included in their Contract.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM SEWER SURPLUS TO SEWER, ENERGY AND UTILITIES.

ORDER: That there be and is hereby appropriated the sum of Forty Thousand Dollars and No Cents (\$40,000.00) from Sewer Surplus to Sewer, Energy and Utilities.

1-2 An Order Appropriating \$30,444.00 from Sewer Surplus to Public Works Department, New Equipment.

Public Works Director Dane Arnold reported that the Order represents reimbursement to the City from the Sewer Department to pay for cover material used at the Sludge Landfill. In prior years, the costs were "a lump sum bid" included in the Suez Contract. When the City assumed control of sewer facilities in July, 2019, the City took

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responsibility for the cover material. The City estimated \$3/year for the cover material, represents about one-half the cost of sand material. The City recorded the amount of material removed from the sand bank which amounted to 10,400 yards.

Councillor Cormier questioned whether the City would be purchasing the material on the open market.

Mr. Arnold stated that Suez, in their bid, had a lump sum cost of about \$70,000 that the City paid Suez to purchase the cover material. The City's cost represents about one-half the cost of the amount that the City paid to Suez.

Councillor Walsh said that he understood that the Sewer Department is reimbursing the City for the cost of the sand, but questioned the reason that funds are being appropriated from Sewer Surplus to the Public Works Department to New Equipment.

Mr. Arnold stated that hauling the material results in "wear and tear" on the DPW equipment – the loaders, dump trucks, etc.

Councillor Walsh then questioned how the funds would be expended in the current Fiscal Year's budget.

Mr. Arnold suggested that the appropriation would fund part of a dump truck or a pickup truck for the DPW, but that no specific piece of equipment has been identified at this time, but that it would be related to the work being performed. He added that the funds would have to be encumbered (to FY2021).

Addressing City Auditor John Richard, Councillor Walsh asked if the appropriation could be encumbered.

Mr. Richard responded, saying that the funds can be encumbered as long as the purpose is stated.

Councillor Walsh asked that if the funds go to the General Fund, what account would be appropriate.

Mr. Richard responded, saying that if not to a specific account, then the funds "would fall to Free Cash."

Councillor Walsh then asked that if the funds are encumbered, could they be used for the FY21 DPW Budget.

Mr. Richard responded, "Yes."

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to recommend to the City Council that the following Order ought to pass:

CITY OF GARDNER, MASSACHUSETTS
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AN ORDER APPROPRIATING FROM SEWER SURPLUS TO PUBLIC WORKS DEPARTMENT, NEW EQUIPMENT.

ORDER: That there be and is hereby appropriated the sum of Thirty Thousand Four Hundred Forty-Four Dollars and No Cents (\$30,444.00) from Sewer Surplus to Public Works Department, New Equipment.

1-3 An Order Appropriating \$60,000.00 from Water Surplus to Water, Energy and Utilities Expenses.

DPW Director Dane Arnold reported that the same budgeting situation occurred in the Water Department, as well, whereby energy and utility expenses were underestimated for FY2020, which cover the Crystal Lake, Snake Pond, and the James Street Pump Stations. The \$60,000 estimate includes a \$5,000 per month buffer (above the average of \$24,000 per month) since the pumps operate more in the summer months. The appropriation should cover the current \$1,300 deficit and pay for May and June.

Councillor Cormier questioned whether the projected expenditures were included with the FY2021 Budget.

Mr. Arnold stated that if the proposed budget did not include the higher estimates, then a Supplemental Budget request would have to be submitted.

AN ORDER APPROPRIATING FROM WATER SURPLUS TO WATER, ENERGY AND UTILITIES.

ORDER: That there be and is hereby appropriated the sum of Sixty Thousand Dollars and No Cents (\$60,000.00) from Water Surplus to Water, Energy and Utilities.

1-4 An Order Appropriating \$13,500.00 from Free Cash to Elections and Registrations, Operating Expenses.

City Clerk informed the Committee that \$9,550 of the Appropriation is for postage for the June 2 Preliminary and June 30 Election. Of that amount, \$5,550 for the Early Voting Application mass mailing and \$2,000 for each election for Early and Absentee ballot outgoing and return postage. Additional costs for envelopes, paper, and associated supplies.

AN ORDER APPROPRIATING FROM FREE CASH TO ELECTIONS AND REGISTRATIONS, OPERATING EXPENSES.

ORDER: That there be and is hereby appropriated the sum of Thirteen Thousand Five Hundred and No Cents (\$13,500.00) from Free Cash to Elections and Registrations, Operating Expenses.

ADJOURNMENT

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on call of the roll, it was voted to adjourn at 5:45 p.m.