

**REGULAR MEETING OF MARCH 18, 2019**

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 18, 2019.

CALL TO ORDER

Council President Scott Joseph Graves 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. Ten (10) Councillors were present including President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh. Councillor Craig Cormier was absent.

OPENING PRAYER

President Graves led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

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

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

President Graves 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.

READING & ACCEPTANCE OF MINUTES

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to waive reading and to accept the Minutes of the Regular Meeting of March 4, 2019, as printed.

PUBLIC HEARING**#10062**

President Graves re-opened the Public Hearing (continued from March 4, 2019) on the petition of NATIONAL GRID and Verizon New England, Inc. for permission to locate poles, wires and fixtures, including the necessary sustaining and protecting fixtures along and across the following public way:



REGULAR MEETING OF MARCH 18, 2019

West Street – National Grid to install one (1) jointly-owned Pole on West Street beginning at a point approximately 100’ west of the centerline of the intersection of Bridge Street and continuing approximately 15 feet in a northerly direction. National Grid to install new midline pole P88-50 (with anchor) between P88 and P89 for tap to new DG site.

The President called for persons wishing to testify in favor of the Petition.

Mark Tapley, representing National Grid, testified that the pole will provide service to the new solar field.

The President thrice called for persons wishing to testify in favor of the Petition.

There being none, the President thrice called for persons wishing to testify in opposition to the Petition.

There being none, President Graves closed the Hearing at 7:33 p.m.

PUBLIC HEARING

#10070

President Graves opened the Public Hearing on an Application by Osagi Enterprise, LLC, for a License to Deal in Motor Vehicle Junk, Class 3, on Toby Street.

The President called for persons wishing to testify in favor of the Application.

Michael Rahaim, current Licensee at 27 Rear Hill Street, testified in favor of the application. He said that about one year ago, he met with the Public Safety Committee and informed them that he was interested in purchasing the property; however, the purchase wasn’t consummated. He said that he was granted a one-year lease in order to close down his business.

Joshua Hall, 61 Hill Street, testified that he is not in favor nor opposed, but that he has concerns, since the business is not active at the present time, but that it may become very active under a new owner. He noted that the operation is situated 50 to 100 feet diagonally from his property and expressed concern that the operation could affect his living area and property values.

Debra Anctil, 61 Hill Street, testified that her household has 5 children and expressed concern about elevated noise, trash, late-hours of operation, and property values.

The President called for persons wishing to testify on the Application.

There being none, President Graves closed the Hearing at 7:40 p.m.



REGULAR MEETING OF MARCH 18, 2019

COMMUNICATIONS FROM THE MAYOR

APPOINTMENTS

#10071

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Appointment of Paulette Burns is a reappointment and that the Committee voted to recommend that the City Council confirm her appointment.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on recommendation of the Finance Committee, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to confirm the following Appointment received from the Mayor:

PAULETTE BURNS to the position of **Member, Board of Assessors**, for term expiring February 26, 2022.

#10072

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Appointment of Mr. Robichaud is a reappointment and that the Committee voted to recommend that the City Council confirm his appointment.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to confirm the following Appointment received from the Mayor:

LUDGER ROBICHAUD to the position of **Member, Cemetery Commission**, for term expiring February 15, 2022.

#10073

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Appointment of Mr. Robichaud is a reappointment and that the Committee voted to recommend that the City Council confirm his appointment.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to confirm the following Appointment received from the Mayor:



REGULAR MEETING OF MARCH 18, 2019

LUDDER ROBICHAUD to the position of **Member, Municipal Grounds Commission**, for term expiring February 15, 2022.

REPORTS OF STANDING COMMITTEES

PUBLIC SERVICE COMMITTEE

#10062

Reporting for the Public Service Committee, Chairman Nathan Boudreau informed the Council that the Committee voted to recommend granting the Petition.

On a motion by Councillor Nathan Boudreau and seconded by Councillor James Boone, on recommendation of the Public Service Committee, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to adopt the following Order:

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

By the City Council of the City of Gardner, Massachusetts

Notice having been given and public hearing held, as provided by law,

IT IS HEREBY ORDERED:

That NATIONAL GRID and VERIZON NEW ENGLAND, INC. (formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said companies dated the 4th day of February 2019.

All construction under this order shall be in accordance with the following conditions:-

Poles shall be of sound timber, and reasonably straight, and shall be set substantially at the points indicated upon the plan marked – West Street – Gardner, Massachusetts.

No. #23557728.....Dated: March 4, 2019 - filed with this order.

There may be attached to said poles by NATIONAL GRID and VERIZON NEW ENGLAND, INC. such wires, cables and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referenced to may be erected, and the number of poles which may be erected thereon under this order:-



REGULAR MEETING OF MARCH 18, 2019

West Street – National Grid to install one (1) jointly-owned Pole on West Street beginning at a point approximately 100’ west of the centerline of the intersection of Bridge Street and continuing approximately 15 feet in a northerly direction. National Grid to install new midline pole P88-50 (with anchor) between P88 and P89 for tap to new DG site.

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

PUBLIC SAFETY COMMITTEE**#10069**

There being no objections, the Public Safety Committee was granted more time to study and report on *Application by Osagi Enterprise, LLC, for a License to Buy and Sell Second Hand Motor Vehicles, Class 2, on Toby Street.*

#10070

There being no objections, the Public Safety Committee was granted more time to study and report on *Application by Osagi Enterprise, LLC, for a License to Deal in Motor Vehicle Junk, Class 3, on Toby Street.*

PUBLIC SERVICE COMMITTEE AND PUBLIC SAFETY COMMITTEE**#10053**

Reporting for the Public Service Committee, Chairman Nathan Boudreau informed the Council that the Committee met to discuss the Ordinance and “motioned favorably to go ahead so that the Council would have a discussion and to amend it on the floor.”

Councillor Nathan Boudreau moved to Order the following Ordinance to First Printing:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 312 THEREOF, ENTITLED “ANIMALS,” BY DELETING AND REPEALING § 312-2F.

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

Section 1. The Code of the City of Gardner is hereby amended by deleting and repealing Subsection F of § 312-2, Responsibilities of owner or keeper, of Chapter 312, Animals.

Section 2. Effective date.

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

Councillor Edward Gravel seconded the motion.

REGULAR MEETING OF MARCH 18, 2019

On the motion, Councillor James Johnson moved to amend the motion by retaining Section F. and amend to read: "No animals shall be allowed in any City cemetery or playground, except in designated areas of Pulaski Park."

Councillor Nathan Boudreau seconded the motion.

On questioning from Councillor Walsh, Councillor Boudreau noted that the Ordinance was presented by the Mayor and that questions were raised by the Public Safety Committee that there are signs posted in various cemeteries and playgrounds that direct people to clean up after their dogs, notwithstanding the restrictions established by Ordinance.

Councillor James Johnson noted that since the law prohibits dogs in playgrounds, then dogs would not be allowed in the new Dog Park at Pulaski Park. Accordingly, by amending the Ordinance, dogs would be allowed in the Dog Park, but not in the playgrounds.

Councillor James Boone questioned whether the Ordinance provides an exception for service dogs in cemeteries.

President Graves responded, saying that Federal and/or State Law supersedes local Ordinance, so if such laws exist, then service dogs are permitted in cemeteries.

Councillor Edward Gravel added that according to the *Americans With Disabilities Act*, service dogs are permitted in public places.

On the motion, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to adopt the amendment.

On the motion, as amended, Councillor James Walsh noted that there are other provisions in the Code that empowers the Director of Public Works to promulgate regulations relating to the presence of dogs in the City's cemeteries, which appear to be in conflict with the provisions of the current Ordinance. He questioned whether the Mayor provided an explanation of the impetus of the proposal and interplay among the competing Ordinances and said that without greater clarification, he would oppose the Ordinance change.

President Graves noted that correspondence from the Mayor indicated that he was unaware of the genesis of the parks and playground restrictions, as the City Code also contains provisions for animal owners to clean up after their dogs.

Councillor Christine Johnson expressed concern that the Ordinance amendment would remove the "no dogs" restriction for only Pulaski Park, and would continue to restrict dogs

REGULAR MEETING OF MARCH 18, 2019

from all of the other playgrounds. She said that the Ordinance change may create a situation where “there’ll be an overcrowding of animals” and that “some animals do not get along with other animals.” “That’s why some people take their animals to playgrounds that aren’t so crowded,” she said. Continuing, Councillor Johnson stated, “Most people are pretty responsible and will pick up after their dogs,” but that the City “will see a huge amount of problems if dogs are allowed only at Pulaski Park.” She informed the Council that there are signs posted at Bickford Playground, with one reading “Please pick up after your dog” and another that reads: “No dogs allowed.” She closed by saying that she is opposed to the Ordinance.

Councillor Edward Gravel informed the Council that he received a communication from a constituent concerning Greenwood Playground and when he responded, he encountered “a bunch of piles from people’s dogs.” “That’s a serious health concern to me,” he said. Continuing, he said that people need to be responsible and to pick up after their animals. “The biggest problem that I have with this Ordinance is that who is policing the owners?” and added that there are Ordinances in Cambridge and Boston that issue fines of \$100.00 if owners do not pick up after their dogs.

Councillor Walsh stated that the Council needs to be aware that if the Ordinance is not passed, the City will have a very large dog park that it invested substantial sums for its construction, that is just about ready to open in late April or early May, and that dogs will not be allowed to use it.

Councillor Elizabeth Kazinskas stated that there are people who do not bring their children where dogs are present, so people will know to not bring their children to a park that is specifically designated for dogs. She added, “We have more children than dogs in this City.”

Councillor Ronald Cormier stated that he would support the Ordinance and suggested that there are two separate issues at hand. The first, he said, is that since the City has a large investment in the new Dog Park, then the Ordinance should be adopted so that the facility could open. Secondly, he said, are the issues that were raised by the Councillors which should be addressed separately.

Councillor Gravel stated that he supports the Ordinance, but that he is concerned about the health concerns that were raised by Councillors. He said that he should have mentioned children, because they play in the playgrounds.

Councillor James Boone informed the Council that he had visited California and Florida and witnessed dogs getting along at dog parks, so that that “it a great thing for Gardner.”

REGULAR MEETING OF MARCH 18, 2019

Councillor Nathan Boudreau stated, “As a ‘fur father’...I’d like to think that our dogs and our children can get along peacefully in the same community. Commonsense must apply – keep you dog on a leash and pick up after your dog.”

Councillor Christine Johnson stated her only concern with the Ordinance is that it applies to only Pulaski Park when there are other areas in the City that people like to take their older dogs. “Perhaps the Council could revisit the issue and open it up to designated areas within other playgrounds?” she asked, and that she would then support the Ordinance.

Councillor James Boone commented that perhaps the City’s Cemetery Rules are outdated, and suggested that families may wish to bring their dogs [to cemeteries] so that the dog can also visit their loved ones that have passed away. He added that there are a lot of responsible dog owners.

On the motion, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to Order the following Ordinance to First Printing:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 312 THEREOF, ENTITLED “ANIMALS,” BY DELETING AND REPEALING § 312-2F.

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 312 THEREOF, ENTITLED “ANIMALS,” TO CHANGE A PROVISION RELATING TO RESPONSIBILITIES OF OWNERS OR KEEPERS.

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

Section 1. Subsection F of Section 312-2 of Chapter 312, Animals, of the Code of the City of Gardner, is hereby amended to read, as follows:

F. No animals shall be allowed in any City cemetery or playground, except in designated areas of Pulaski Park.

Section 2. Effective date.

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

FIRST PRINTING - MARCH 22, 2019

MEASURE TAKEN OUT OF ORDER

UNFINISHED BUSINESS

REGULAR MEETING OF MARCH 18, 2019

#10007

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, it was voted viva voce, nine (9) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh; one (1) excused, Councillor Edward Gravel^[1], to adopt the following Ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 156 THEREOF, ENTITLED "MUNICIPAL GROUNDS COMMISSION," TO ADD PROVISIONS RELATING TO A COMMUNITY BANDSTAND COMMITTEE.

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

Section 1. Chapter 156-3 of the Code of the City of Gardner is hereby amended by adding the following:

B. There is hereby established under this Section the "Community Bandstand Committee" which shall exist and be operated hereunder for the purpose of implementing seasonal programs to be conducted in the City's parks including but not limited to summer musical concerts and other community entertainment events at the Bandstand located in Monument Park, as well as at the City's other parks, at the City's other municipal grounds and at other appropriate locations in the City. The Community Bandstand Committee shall consist of no less than three (3) members, one of whom shall be a member of the Municipal Grounds Commission, to carry out the purposes of this Section 156-3B. All members shall be appointed in accordance with Section 156-1A.

C. The Community Bandstand Committee may receive donations and gifts of property, both real and personal, in the name of the City to further the purposes as set forth in Section 156-3B. Upon receipt of any such donation or gift the Community Bandstand Committee shall provide each such gift or donation to the Treasurer, who shall deposit same into an account to be created and named the "Community Bandstand Committee Program Fund." All funds in such Community Bandstand Committee Program Fund shall be used for the purposes set forth in Section 156-3B.

D. Revise the former (present) 156-3B to 156-30.

Section 2. Effective date.

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

In City Council – November 5, 2018
Ordered Printed – February 19, 2019
First Printing – February 25, 2019
Ordinance Passed – March 18, 2019

REGULAR MEETING OF MARCH 18, 2019

The foregoing was laid before the Mayor on the 19th day of March, 2019 and after ten days it had the “force of the law” as prescribed under Section 30 of the Charter of the City of Gardner, as it was not returned with objections within that time.

FINAL PRINTING – April 4, 2019

[1] Councillor Gravel recused himself from discussing or voting on the Measure since he has been involved with the Band Concerts for many years and he determined that his participation would give the appearance of a conflict of interest. The Council did not object to his recusal.

FINANCE COMMITTEE**#10008**

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted viva voce, nine (9) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh; one (1) excused, Councillor Edward Gravel^[1], to adopt the following Measure:

ACCEPTANCE OF DONATIONS AND GIFTS
COMMUNITY BANDSTAND CONCERTS AND EVENTS

VOTED: That the City of Gardner is authorized to accept donations and gifts for use by the Community Bandstand Committee for musical concerts and other community entertainment events, said acceptance in accordance with the provisions of Chapter 44, Section 53A½ of the General laws.

The foregoing was laid before the Mayor on the 19th day of March, 2019 and after ten days it had the “force of the law” as prescribed under Section 30 of the Charter of the City of Gardner, as it was not returned with objections within that time.

[1] Councillor Gravel recused himself from discussing or voting on the Measure since he has been involved with the Band Concerts for many years and he determined that his participation would give the appearance of a conflict of interest. The Council did not object to his recusal.

#10068

On a motion by Councillor James Johnson and seconded by Councillor Karen Hardern, it was voted viva voce, nine (9) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to adopt the following Ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 600 THEREOF, ENTITLED “VEHICLES AND TRAFFIC,” TO CHANGE PROVISIONS RELATING TO ROTARY TRAFFIC, TRAFFIC ISLANDS, AND OBEDIENCE TO ISOLATED YIELD SIGNS.

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



 REGULAR MEETING OF MARCH 18, 2019

Section 1.

The Code of the City of Gardner is hereby amended by striking from Article VII. One-Way Streets; Rotary Traffic. § 600-43. Rotary traffic, Lafayette Square: Parker Street, West Street and Oak Street.

Section 2.

The Code of the City of Gardner is further amended by changing Article XII. Traffic Islands, § 600-74. Location designated, to read as follows:

D. Lafayette Square: Parker Street, West Street and Oak Street, where vehicular traffic shall move only in a counter clockwise direction, except when directed by an officer.

Section 3.

The Code of the City of Gardner is further amended by adding to Article VIII. Operation of Vehicles, § 600-55. Obedience to Isolated Yield Signs, the following:

Yield Street	Direction of Travel	For Traffic Entering
Oak Street	Eastbound	Parker Street
Parker Street	Westbound	West Street

Section 4.

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

In City Council – March 4, 2019

Ordered Printed – March 4, 2019

First Printing – February 25, 2019

Ordinance Passed – March 18, 2019

The foregoing was laid before the Mayor on the 19th day of March, 2019 and after ten days it had the “force of the law” as prescribed under Section 30 of the Charter of the City of Gardner, as it was not returned with objections within that time.

FINAL PRINTING – April 4, 2019

NEW BUSINESS

On a motion by Councillor Christine Johnson and seconded by Councillor Nathan Boudreau, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskis, and James Walsh, to consider New Business.

ANNOUNCEMENTS and COMMENTARY

Cameron Davis, Eagle Scout

Councillor Nathan Boudreau congratulated Cameron Davis on attaining the rank of Eagle Scout.

REGULAR MEETING OF MARCH 18, 2019

Bandstand Committee

Councillor Edward Gravel expressed his appreciation to everyone for their efforts to adopt the Ordinance creating the Bandstand Committee.

State of the City's Streets

Councillor James Walsh commented on the state of the City's streets, particularly following the recent winter season which "wreaked havoc on the streets." He said that filling the potholes "is only patchwork" and that the need to repave the City's streets is significant and that he hopes that in FY2020, the Mayor will commit more of the City's resources into repaving the streets, as they are used each and every day by nearly everyone.

J. Ulysse Cormier Student Government Week Events at Holy Family Academy

Councillor Ronald Cormier reminded Councillors that this week is the J. Ulysse Cormier Student Government Week at Holy Family Academy. He added that the Annual Assembly is scheduled for Wednesday and the City Hall visitation is scheduled for Thursday. He encouraged Councillors to attend the Assembly if their schedules permitted.

Tri-City Council Dinner

President Scott Graves reminded Councillors to notify the City Clerk if they plan to attend the Tri-City Council Dinner in Leominster on the 10th day of April.

Mayor's State of the City Address

Commenting on the City's accomplishments that were cited in the Mayor's 2018 State of the City Address, President Scott Graves said that all of the accomplishments were attributable to the City Council, the citizens, and especially the taxpayers, whose tax dollars paid for the myriad of projects awarded to the City from grants. He cited specific grants and other actions taken by the Council that achieved the accomplishments cited in the Mayor's Address.

CLOSING PRAYER

President Graves led the Council in the Closing Prayer.

ADJOURNMENT

On a motion by Councillor Edward Gravel and seconded by Councillor Nathan Boudreau, it was voted viva voce, ten (10) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to adjourn at 8:14 p.m.

Accepted by the City Council: *April 1, 2019*