

**REGULAR MEETING OF MARCH 19, 2018**

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 19, 2018.

CALL TO ORDER

Council President Scott J. 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 Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas. Councillor James Walsh 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 Johnson, it was voted viva voce, ten (10) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas, to waive reading and to accept the Minutes of the March 5, 2018 Informal and Regular Meetings, as printed.

COMMUNICATIONS FROM THE MAYOR**#9901**

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Committee met with the DPW Director and Assistant Director and was advised that the DPW plans to repave Acadia Road and would like to replace the water main prior to resurfacing. He added that the water main replacement would also incorporate associated infrastructure and noted that a list of planned water main replacements was included in the Council's packet.

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

AN ORDER APPROPRIATING FROM WATER SURPLUS TO WATER – ACADIA ROAD WATER MAIN IMPROVEMENT.

ORDERED: That there be and is hereby appropriated the sum of Two Hundred Sixty Thousand Dollars and No Cents (\$260,000.00) from Water Surplus to Water – Acadia Road Water Main Improvement.

Presented to Mayor for Approval – March 20, 2018

Approved – March 20, 2018

MARK P. HAWKE, Mayor

#9902

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Committee discussed the appropriation with the DPW Director and Assistant Director and was advised that the plan is to create a loop system and redundancy for the neighborhood, since there is only a single main line serving the area. He said that \$100,000.00 has been encumbered for Water Main improvements, so the additional \$50,000.00 will complete the project.

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

AN ORDER APPROPRIATING FROM WATER SURPLUS TO WATER – CLARK STREET WATER MAIN IMPROVEMENT ACCOUNT.

ORDERED: That there be and is hereby appropriated the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) from Water Surplus to Water – Clark Street Water Main Improvement Account.

Presented to Mayor for Approval – March 20, 2018

Approved – March 20, 2018

MARK P. HAWKE, Mayor

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PETITIONS, APPLICATIONS, ETC.**#9903**

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the City may not enter into a contract for a period longer than three years without Council authorization, noting that the Council has authorized extended contract periods in the past. He said that the proposed Contract will result in substantial savings as a result of a longer contract period, adding that the software package is unique to public safety departments which are required to implement mandated training programs and that the [HCMS] software tracks training for each department.

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

AUTHORIZING A FIVE-YEAR CONTRACT WITH
PM AM CORPORATION FOR
HUMAN CAPITAL MANAGEMENT SERVICES
FOR THE POLICE DEPARTMENT

VOTED: To authorize the City to enter into a contract for a period not to exceed five (5) years with PM AM Corporation for Human Capital Management Services for the Police Department, pursuant to the provisions of Massachusetts General Law, Chapter 30B, section 12 and in accordance with the PM AM Corporation Human Capital Management – SaaS License Agreement dated February 20, 2018, and the Mayor's Correspondence dated March 6, 2018, attached and made a part hereto.

Presented to Mayor for Approval – March 20, 2018

Approved – March 20, 2018

MARK P. HAWKE, Mayor

#9904

Councillor Nathan Boudreau, Chairman of the Public Service Committee, reported that the Committee reviewed the proposed Ordinance and, "as with most new Ordinances, there are some gray areas and some people in the community have found a gray area." He said that the Committee voted in favor of recommending adoption of the Ordinance.

Councillor Nathan Boudreau moved to Order to First Printing AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 567 THEREOF, ENTITLED "STREETS AND SIDEWALKS," TO PROHIBIT THE DEPOSIT OF SNOW OR ICE ON PUBLIC PROPERTY.

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Councillor James Johnson seconded the motion.

On the motion, Councillor James Johnson stated that the Public Safety Committee did not meet to discuss the Ordinance; however, he noted that “only a few words are being added to the existing Ordinance.” He said that the original Ordinance deals only with sidewalks and roadways, but “now we have to address the problem with people dumping snow in the City’s parks and playgrounds, which then requires the DPW to provide additional snow removal.” He cited private snow dumping in Bickford Playground, which is in the Ward that he represents, as an example.

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

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 567 THEREOF, ENTITLED “STREETS AND SIDEWALKS,” TO PROHIBIT THE DEPOSIT OF SNOW OR ICE ON PUBLIC PROPERTY.

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

Section 1. Section 567-30 of Chapter 567, Streets and Sidewalks, of the Code of the City of Gardner, is hereby amended by deleting and repealing the first sentence in its entirety and inserting in place thereof, the sentence “No person shall remove snow, slush or ice from privately owned real property and place it upon any public sidewalk, street, or public property.”

Section 2. Effective date.

This ordinance shall become effective upon passage.

FIRST PRINTING – MARCH 23, 2018

#9905

Councillor Christine Johnson moved to refer to the Public Service Committee and to the Public Welfare Committee, jointly, *An Ordinance to Amend the Code of the City of Gardner by Adding A New Chapter To Be Entitled “Scenic Roads.”*

Councillor Nathan Boudreau seconded the motion.

On the motion to refer, Councillor James Johnson asked if the Council could include, in the vote to refer, [a list of] City roads that would qualify as “scenic roads” if the Ordinance passes.

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Citing the statutory provisions governing “Scenic Roads,” Councillor Christine Johnson informed the Council that there are only three municipal boards that can propose “scenic roads” – the Conservation Commission, Planning Board, and the Historical Commission. The three boards, she said, are required to investigate which roads would qualify as “scenic roads,” and that the City Council does not choose which roads that could be considered for designation as “scenic roads.” The Council, she added, would receive recommendations from the three boards for formal “scenic road” designation.

President Graves suggested that representatives from the three boards be invited to participate in the meetings of the committees tasked with studying the proposed Ordinance.

Councillor Christine Johnson affirmed that she would invite the relevant boards and commissions to meet with the Public Welfare Committee, as did Councillor Boudreau to meetings of the Public Service Committee.

On a motion by Councillor Christine Johnson and seconded by Councillor Nathan Boudreau, it was voted *viva voce*, ten (10) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas, to refer to the Public Service Committee and to the Public Welfare Committee, jointly, the following Ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING A NEW CHAPTER TO BE ENTITLED “SCENIC ROADS.”

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDNER AS FOLLOWS:

Section 1. Designation

The purpose of this ordinance is to preserve the qualities and characters of City roadways that are designated as scenic roads under the provisions of Massachusetts General Laws (MGL) Chapter 40, Section 15C.

Section 2. Consent required repairs

Any repair, maintenance or reconstruction of a scenic road or paving work done with respect thereto or installation, repair or alteration of a utility including but not limited to water, sewer, electric, telephone, and cable shall not involve or include the cutting or removal of trees more than one and one-half inches in diameter one foot from the ground or the tearing down or destruction of stone walls or portions thereof, except with the prior written consent of the Planning Board after a public hearing duly advertised. In granting or refusing such consent, the Planning Board shall consider, among other things, public safety, scenic views, preservation of historic and regional characteristics and preservation and enhancement of natural and aesthetic qualities of the environment.



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Section 3. Filing

Any person or organization seeking the consent of the Planning Board under MGL Chapter 40, Section 15C shall provide the following information: written description of the proposed action including location and the proposed changes to trees and stone walls.

* Plans or drawings, acceptable to the Planning Board, showing the proposed action and the proposed changes to trees and stone walls.

* Except in the case of City departments and the Commonwealth of Massachusetts, a fee sufficient to pay the cost of the advertising required by MGL Chapter 40, Section 15C.

Section 4. Emergency Repairs

The provisions of this ordinance shall not apply to State or City officials acting in an emergency situation.

Section 5. Penalties and Enforcement

Any violation of this ordinance, MGL Chapter 40, Section 15C or a Planning Board decision issued under this ordinance shall be punishable by a fine of not to exceed three hundred dollars (\$300). Each day on which any violation exists shall be deemed to be a separate offense. Restoration of removed or damaged trees and stone walls to the satisfaction of the Planning Board, or approval of a relevant application will eliminate a violation.

Section 6. Additional standards

The Planning Board may adopt reasonable further standards relative to scenic roads not inconsistent with the provisions of this ordinance and the General Laws.

REPORTS OF STANDING COMMITTEES**PUBLIC SERVICE COMMITTEE****#9897**

Councillor Nathan Boudreau, Chairman of the Public Service Committee, reported that the Committee reviewed the *Petition by Verizon New England, Inc. for permission to install one (1) solely-owned pole on the easterly side of Graham Street at a point approximately 97' southerly from the center line of Richmond Street* and voted to recommend favorable action.

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 Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas, to adopt the following Order:



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ORDER FOR POLE LOCATION

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 VERIZON NEW ENGLAND, INC. be and is hereby granted a location for and permission to erect and maintain poles and their respective wires to be placed thereon, together with anchors, guys, and other sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Company dated the 30th day of January, 2018.

GRAHAM STREET: Place one (1) solely-owned pole numbered T6S on the easterly side of Graham Street at a point approximately ninety-seven (97) feet southerly from the center line of Richmond Street.

1 Pole to be placed.

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 –

VERIZON No. 1A2PG2P Dated: January 30, 2018 - filed with said Petition.

There may be attached to said poles by said Verizon New England, Inc. not to exceed 20 wires and 5 cables and by said any such wires, cables and fixtures as are necessary in its business and all of said wires and cables shall be placed at a height in compliance with the National Electrical Safety Code.

Also that permission be and hereby is granted said VERIZON NEW ENGLAND, INC. 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 it may desire for distributing purposes.

PUBLIC WELFARE COMMITTEE

#9898

Councillor Christine Johnson, Chairperson of the Public Welfare Committee, reported that the Committee met on March 15, received a presentation by Zero Point Development and held a lengthy discussion concerning the proposed *Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, Entitled "Zoning," by Adding a Solar Photovoltaic Overlay District off Lovewell Street.* She said that the project's proponents will be submitting photographs and conceptual plans to the City Council and that the Committee took no action since the Planning Board had not yet held a meeting on the matter. Councillor Johnson then

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requested that the Committee be granted more time. There being no objections, the Committee was granted more time.

President Graves remarked that “the timing was off” since the Planning Board scheduled its meeting following the Public Welfare Committee meeting.

Councillor Christine Johnson informed the Council that it is her understanding that the Planning Board is planning to conduct a site visit “and to walk the property.” She said that the Council President notified Community Development and Planning Director Trevor Beauregard and requested that he notify the Council of the date and time of the site visit, in the event that any Councillor may wish to join the site walk.

President Graves informed the Council that the Public Hearing on Solar Overlay District Ordinance amendment, as well as for Calendar #9899, will be held on Monday, April 9, 2018.

#9899

Councillor Christine Johnson, Chairperson of the Public Welfare Committee, reported that the Committee met on March 15, 2018 to review *An Ordinance to Amend the Code of the City of Gardner by Deleting and Repealing Chapter 675 Thereof, “Zoning,” and Replacing it With a New Chapter 675, to be Entitled “Zoning,”* and determined that it would be in the best interest to recommend that the Ordinance be referred to the Council as Committee of the Whole.

On a motion by Councillor Christine Johnson and seconded by Councillor Nathan Boudreau, it was voted viva voce, ten (10) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas, to refer to the Council as Committee of the Whole *An Ordinance to Amend the Code of the City of Gardner by Deleting and Repealing Chapter 675 Thereof, “Zoning,” and Replacing it With a New Chapter 675, to be Entitled “Zoning.”*

UNFINISHED BUSINESS**#9898**

There being no objections, the Planning Board was granted more time to issue its Report and Recommendation on *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, Entitled “Zoning,” by Adding a Solar Photovoltaic Overlay District off Lovewell Street.*

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#9899

There being no objections, the Planning Board was granted more time to issue its Report and Recommendation concerning *An Ordinance to Amend the Code of the City of Gardner by Deleting and Repealing Chapter 675 Thereof, "Zoning," and Replacing it With a New Chapter 675, to be Entitled "Zoning."*

NEW BUSINESS

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

ANNOUNCEMENTS AND COMMENTARY**Overnight Parking Ban**

Councillor Nathan Boudreau requested that everyone send to him their ideas about the overnight parking ban. He said that the parking ban is an injustice to the City's neediest residents, particularly those in the lower income neighborhoods.

Councillor Edward Gravel added that there is a Facebook Ward 3 discussion page.

Council President Scott Graves stated that he is pursuing review of the overnight parking ban, "since before you know it, the snow will fly again."

Maki Block Demolition

Councillor Elizabeth Kazinskas reminded Councillors that demolition to the Maki Block begins today and that Downtown businesses will remain open and that parking is available throughout the Downtown.

Concerts in the Park/Bandstand Committee

Councillor Edward Gravel welcomed "a couple of new members" to the Bandstand Committee – Curt Gauthier and Buddy Ducharme. He said that Mr. Ducharme will serve as Sponsor Coordinator for the Concerts in the Park, which "will take a lot of work from his shoulders."

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Public Works

Councillor Edward Gravel thanked the Department of Public Works for performing water main improvements, adding that water use fees are used to pay for them. He also noted that snow storms have created a \$256,000 budget deficit, from an original budget of \$350,000.00.

Citing two recent snow storms, Councillor James Johnson noted that a lot of sidewalks have not been cleared and that he spoke with the DPW Director and was advised that “two of the sidewalk tractors are down and a third tractor has had maintenance issues.” He added that trash and debris on the sidewalks and roadways are “sucked up by the plows,” resulting in maintenance issues, so he asked residents to pick up trash and debris from yards and sidewalks.

Former City Councillor James J. Minns

Noting the recent passing of former Ward 4 Councillor James J. Minns, Councillor Karen Hardern stated that he was a wonderful and soft-spoken man that cared deeply about this City and the people that he represented in Ward 4. So, she said, that to allow it to be Councillor Minns’ legacy and in his memory, she bid Councillor Minns “a final Hallelujah.”

Holy Family Academy’s 38th Annual J. Ulysse Cormier Student Government Assembly

Councillor Ronald Cormier announced that Holy Family Academy’s 38th Annual J. Ulysse Cormier Student Government Assembly will be held on Wednesday, March 21 at 9:15 a.m. in the Holy Rosary Church Hall. He invited all City Councillors to attend and noted that a number of dignitaries, including the District Attorney, State Senator, and State Representative, will address the Assembly.

City Council Legislative Legal Counsel

Council President Scott Graves informed the Council that he sponsored legislation, by Ordinance, to permit the establishment of Legislative Legal Counsel, adding that a letter that he submitted to the Law Department was placed on each Councillor’s desk.

He said that at the recent Finance Committee meeting, he led a discussion as to whether the City Council should have its own independent legal counsel. “So,” he continued, “the Finance Committee recommended that the Legal Department look at the proposed Ordinance to determine whether any legalities which would prevent the Council from voting on the measure.” He said that from time to time, the Legal Department will give the City Council a legal opinion which the City Council does not necessarily agree with, and in the City of Gardner, that “is the end of the road, as far as we are concerned.”

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President Graves continued, saying that he believes that “the integrity of the City Council requires, from time to time, that it has its own legal counsel for those instances when the Council disagrees with the opinion of the Legal Department. It is rare when that happens, but when it does, in my opinion, it prevents the Council from doing what it is obligated to do for the people.”

Concluding his remarks, Mr. Graves said, “We are the legislative branch of the City, and the other branch is the Executive branch, and not always do the two branches agree on legal issues. And so, when the instances arise when the two branches disagree, a reasonable impasse in that regard, the City Council should be able to retain its own legal counsel to provide input to address its side of the legal issue. So, the Legal Department will address the question and the Council will deal with it when a response is received.”

An Ordinance to Amend the Code of the City of Gardner by Deleting and Repealing Chapter 675 Thereof, “Zoning,” and Replacing it With a New Chapter 675, to be Entitled “Zoning.”

Council President Scott Graves informed the Council that he e-mailed Council members with an explanation as to why it seems that the process “is being rushed.” He said that the Hearing Notice was published as soon as possible because any developer or anyone else seeking to make changes to their property would be subject to any new zoning amendment that is adopted. He added that Community Development and Planning Director Trevor Beauregard advised the Council to do so. He continued, saying that the action to publish the Hearing Notice does not affect the Council’s ability to take the time necessary to study and review the proposed changes to the Zoning Code and that the Council is still awaiting the Report and recommendations of the Planning Board.

“Opioid Litigation”

Council President Scott Graves informed the Council that he asked City Solicitor John Flick about “the Opioid Litigation” that is occurring in Massachusetts and throughout the country. He said that there are 34 municipalities in Massachusetts that have joined a class action lawsuit, and another 33 municipalities that have verbally committed to joining the lawsuit. The lawsuit, he said, seeks monetary damages against four major drug companies for infrastructure, health, public safety, and other costs.

Mr. Graves continued, saying that City Solicitor John Flick advised him that he [Flick] is still reviewing the matter, although he said that he [Flick] is personally against it [the lawsuit], “which doesn’t personally interest me,” but that he [Graves] is looking into it as a viable option for the City of Gardner and [that Flick] has discussed it with the Mayor.



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President Graves concluded by saying that he “will stay on top of the issue, because if there is potentially money for the City of Gardner, [so] then he will continue to pursue it.”

Open Meeting Law

Council President Scott Graves informed the Council that with regard to the Open Meeting Law, he is “a sunny guy,” as “everything should be out in the open.” He reminded Councillors that everything should be out in the open, citing e-mails that are sent by Councillors are public record and everyone should know where they are kept in the event of a public records request, “so keep everything organized.”

Tri-City Council Dinner

President Graves announced that Gardner will host this year’s Tri-City Council Dinner with the Councils of Fitchburg and Leominster. He said that the City Clerk would send an e-mail to all Councillors to solicit their availability for certain available dates.

CLOSING PRAYER

President Graves led the Council in the Closing Prayer.

ADJOURNMENT

On a motion by Councillor Edward Gravel and seconded by Councillor Christine Johnson, it was voted viva voce, ten (10) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas, to adjourn at 8:03 o’clock p.m.

Accepted by the City Council: *April 2, 2018*