

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MARCH 28, 2018

Finance Committee Members present were Council President Scott Graves and Councillors Ronald Cormier and James Walsh. City Clerk Alan Agnelli was also in attendance.

Other Officials Participating included Mayor Mark Hawke and City Auditor John Richard.

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

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

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

No one responded.

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

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, it was voted to approve the Minutes of the Meeting of March 14, 2018, as printed.

4-1 An Ordinance to Amend the Code of the City of Gardner by Adding New Chapter 295, to Be Entitled "Community Bandstand Committee."

Opening the discussion, Mayor Hawke said that he "is agnostic on it," and that Eddie ran it for years, adding that maybe the concerts should be under Parks and Recreation. He said that he spoke with Jen Dymek regarding procurement issues and that most bands cost less than \$500 per performance.

Councillor James Walsh questioned whether the Bandstand Committee "was operating outside the realm of the City."

Mayor Hawke said that it is a volunteer organization.

Councillor Walsh noted that the Bandstand organization seems to be an unorganized group that operates its events on City property and utilizes City managed accounts.

Mayor Hawke said that they send letters to local banks seeking donations and that the money goes into a City account.

Councillor Walsh responded, saying that since City accounts are used, as well as City property, therefore, they must then be affiliated with the City and seemingly organized on an ad-hoc basis.

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Mayor Hawke said that the organization is under the DPW's parks and recreation.

Councillor Walsh suggested that the operation should be formally organized.

Councillor Ronald Cormier questioned whether the group could be organized as a subcommittee under the DPW.

Mayor Hawke said that there are three members of Parks and Recreation.

President Scott Graves stated that he has several concerns about the operation, the first is that the City Council has to authorize acceptance of any donated funds and how those funds are treated once authorized.

City Auditor John Richard said that the Committee gives the money to the Treasurer and it is deposited into a gift fund. On questioning, he said that the City has never passed legislation authorizing acceptance of the donations.

Councillor Ronald Cormier questioned whether the creation of a revolving fund would serve the same purpose.

Councillor Walsh stated that donations are required to be deposited into gift fund, since a revolving fund is for fees and charges for a service.

Citing the provisions of Chapter 44, section 53A of the General Laws, President Graves stated that only if the City Council authorizes acceptance of gift fund that it may receive such donations, which could then be earmarked for the band concerts.

The Mayor added that the City has 26 gift funds for various purposes, citing the Brooks Pharmacy Gift Fund and the Pine Street Gift Fund.

Councillor Walsh noted that the City Council will probably have to authorize acceptance of any gifts for the band concerts.

President Graves suggested that any funds solicited by the Youth Commission, as an example, would be required to have an authorized gift fund.

Mayor Hawke noted that the City has a Skate Park Gift Fund and that the Youth Commission formerly held dances.

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President Graves recommended that the Gift Fund proposal be referred to the City Solicitor and to the City Auditor for review and then to report back to the Finance Committee with recommendations to implement the gift fund. He then questioned whether the Bandstand Committee members could be held personally liable in the event of any damages or an incident and if the City bears any liability.

Councillor Walsh suggested that the nature of the event would determine whether the City's insurance would cover any damages because of the City's affiliation with the concert events.

Mayor Hawke stated that the City's insurance would cover any event.

Citing contractual issues, President Graves questioned whether Ed Gravel could be held liable if he breaches a contract with a vendor or would the City be held liable.

Councillor Walsh expressed his desire to pursue the plan to make the arrangement formal, "as current conditions dictate the need to do so."

Councillor Ronald Cormier suggested that any duly appointed member of a municipal board or commission is indemnified.

Councillor Walsh concurred, adding that without formally establishing the committee, volunteers "could be left on their own."

The Committee agreed to keep AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING NEW CHAPTER 295, TO BE ENTITLED "COMMUNITY BANDSTAND COMMITTEE," on its Agenda until it receives appropriate legislation from the Law Department and/or City Auditor.

OTHER BUSINESS

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

President Graves informed the Committee that he transmitted a letter to the Law Department seeking a review of the proposed Ordinance that would create the position of Legal Counsel to the City Council. The Agenda item will remain on the Committee's future Agendas until a response is received.

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

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

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

§ 45-3. Legal counsel.

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

Section 2. Severability

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

Section 3. Effective date.

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

City Council FY2018 Communications Budget

City Clerk Alan Agnelli informed the Committee that only \$71.86 remains uncommitted in the City Council's FY2018 Communications Budget. He said that \$9,000.00 was appropriated for the current Fiscal Year; however, numerous ordinances were adopted and public hearings held that necessitated publication in *The Gardner News*. Any further Ordinances and public hearings will require publication, which will result in deficit spending, he added.

President Graves stated that the Committee will need to work with the Mayor to obtain a supplemental appropriation for expenses for the remainder of the year.

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Councillor James Walsh asked the Mayor if he is aware of any rules that prohibit deficit spending.

The Mayor offered no response.

ELECTRICITY AGGREGATION RATES

Mayor Hawke informed the Committee that National Grid announced its summer electricity rates and reported that their new rates exceed the City's aggregation rates by .6¢ per kilowatt hour. He added that the City's aggregation rates "look good in the foreseeable future."

ADJOURNMENT

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to adjourn at 12:17 p.m.