



REGULAR MEETING OF MAY 21, 2018

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, May 21, 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. Eleven (11) 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, Elizabeth Kazinskas, and James Walsh.

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, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, 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 May 7, 2018 Regular Meeting, as printed.

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RECONSIDERATION MEASURE TAKEN OUT OF ORDER

President Graves announced that Calendar #9921, *An Order Authorizing the City to Borrow a Sum of Money for Watkins Field Improvements*, having not passed at the May 15, 2018 Special Meeting and eligible for reconsideration under Council Rule No. 10, be brought up at this time. There being no objections and by unanimous consent, he called up a motion for Reconsideration.

Councillor Karen Hardern, having voted on the prevailing side, moved to reconsider Calendar #9921, *An Order Authorizing the City to Borrow a Sum of Money for Watkins Field Improvements*, as follows:

CITY OF GARDNER, MASSACHUSETTS
IN CITY COUNCIL

ORDER: That the City of Gardner appropriates the sum of THREE MILLION NINE HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$3,934,750.00) to pay costs of renovating Watkin's Field, and paying costs incidental or related thereto; to meet said appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said sum under M.G.L. Chapter 44, Section 7(1), or any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Councillor Christine Johnson seconded the motion.

On the motion to reconsider, Councillor Christine Johnson noted that a poll on a Facebook page entitled "Gardner Mass Politics - Information You Should Know," 76% of the 678 respondents voted in favor of reconsideration.

Councillor Boone criticized the lack of any effort to raise funds for the project and suggested addressing the project in two phases.

Noting the size of the crowd in the audience, Councillor Boudreau said, "This is how you government – you government with fire and passion," adding "this is the City you should be investing in."

Councillor Edward Gravel said that his 'no vote' was very clear – that he would not support this program, because if this City cannot support its teachers, to level fund them and do basic

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needs and above and beyond net school spending.” “This is a teaching moment,” he said, and that he “is sticking up for the teachers.”

Councillor James Walsh noted Councillor’s Hardern’s courage she has shown in the face of emotions” and “not succumbing to pressure.”

On the motion, it was voted on call of the roll, ten (10) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh; one (1) nay, Councillor Edward Gravel, to reconsider the Loan Order.

Councillor James Walsh moved to pass the Order. Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Christine Johnson noted her personal initiative to raise funds for the field and its subsequent maintenance costs.

Councillor Elizabeth Kazinskas presented notes from students supporting the Watkins Field project.

Councillor Edward Gravel volunteered to help with fundraising efforts for the project.

Councillor James Johnson noted that his “no vote” was not indicative of opposition to the project, but that the overall cost was a serious concern to him.

Councillor James Boone moved to amend the Order by reducing the loan amount by 50%. Councillor Edward Gravel seconded the motion.

President Graves informed the Council that a 50% reduction would equal \$1,748,690.00.

On the motion, Councillor Boone said that the focus should be on replacing the bleachers and the press box and to address the remainder at a later time. He noted that at the time when the Council voted to fund the Feasibility Study, he said that he would like to see funds raised for the project and it bothers him that no fund raising was undertaken.

Councillor Christine Johnson noted that the Councillors are forgetting that the amount of the Loan Order “is an estimate,” and that bid prices could be lower than the estimates. She added that the project is an investment.

Councillor Elizabeth Kazinskas said that “asking for \$3.5 million every 40 years is not excessive,” and added that cutting the loan in half will cost the City more money later.

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Councillor Ronald Cormier stated that he would not support the amendment, noting that the project scope is comprehensive in approach and that “a piecemeal approach” would “cost the City more money in the long run.”

Councillor James Walsh noted that “the motion [to amend] was not well designed,” and agreed that “more work could have been done to help defray the initial cost of the project”

On the motion, it was voted on call of the roll, nine (9) yeas, President Scott Graves and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh; two (2) nays, Councillors James Boone and Edward Gravel, to pass the following Order:

CITY OF GARDNER, MASSACHUSETTS
IN CITY COUNCIL

ORDERED: That the City of Gardner appropriates the sum of THREE MILLION NINE HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$3,934,750.00) to pay costs of renovating Watkin’s Field, and paying costs incidental or related thereto; to meet said appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said sum under M.G.L. Chapter 44, Section 7(1), or any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Presented to Mayor for Approval –May 22, 2018

Approved – May 25, 2018

MARK P. HAWKE, Mayor

COMMUNICATIONS FROM THE MAYOR

APPOINTMENT

#9924

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Finance Committee voted to recommend that the Council confirm the Mayor’s appointment of Debra Pond to the position of Member, Disability Commission, for term expiring May 8, 2021.

Councillor Ronald Cormier noted that City Code requires that Ms. Pond, as Director of Human Resources, serve on the Disability Commission.

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On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to confirm the Mayor's Appointment of Debra Pond to the position of Member, Disability Commission, for term expiring May 8, 2021.

Worcester, ss.

May 22, 2018

Then personally appeared DEBRA POND and made oath that she would faithfully and impartially perform the duties of Member, Disability Commission, according to law and the best of her abilities.

Before me,
/s/ Alan L. Agnelli, City Clerk

ORDERS

#9925

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the appropriation represents the City's share of the cost of the feasibility study for a new elementary school, adding that the total cost is \$750,000, 78.95% of which is reimbursed by the State.

Councillor Christine Johnson noted that on September 10, 2011, the School Committee set aside \$125,000 for a Feasibility Study which represented the unreimbursed portion. She said that any Councillor on that subcommittee that she's asked about it still hasn't received an answer and, unless she "gets an answer as to where the funds went," the she will not support the appropriation.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on recommendation of the Finance Committee, it was voted on call of the roll, nine (9) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Elizabeth Kazinskas, and James Walsh; two (2) nays, Councillors Christine Johnson and James Johnson, to adopt the following Order:

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

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

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Presented to Mayor for Approval –May 22, 2018

Approved – May 25, 2018

MARK P. HAWKE, Mayor

#9926

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the \$200,000 appropriation represents a portion of the City's share of the cost of the new DPW facility, which is \$625,000.00. The remainder of the project's cost will be borne by the Sewer and Water Enterprise funds. He said that the remainder, \$425,000.00, is included in the Debt Service portion of the FY2019 City Budget.

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted on call of the roll, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to

AN ORDER APPROPRIATING FROM FREE CASH TO PRINCIPAL INSIDE DEBT.

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

Presented to Mayor for Approval –May 22, 2018

Approved – May 25, 2018

MARK P. HAWKE, Mayor

#9927

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the appropriation is expected to cover the remaining deficit in snow and ice and that only \$300,000 was appropriated for the Fiscal Year.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on recommendation of the Finance Committee, it was voted on call of the roll, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to pass the following Order:

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

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

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Presented to Mayor for Approval –May 22, 2018

Approved – May 25, 2018

MARK P. HAWKE, Mayor

PETITIONS, APPLICATIONS, ETC.

#9928

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the exemption would permit Mr. Tonet to also serve as Alternate Plumbing Inspector until a permanent Inspector is hired and then to be paid at the regular hourly rate.

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on recommendation of the Finance Committee, it was voted on call of the roll, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to pass the following Measure:

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

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

Presented to Mayor for Approval –May 22, 2018

Approved – May 25, 2018

MARK P. HAWKE, Mayor

#9929

On a motion by Councillor Nathan Boudreau and seconded by Councillor Craig Cormier, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to refer *A Petition by National Grid to install one (1) solely-owned pole on Parker Street beginning at a point approximately 162' northeast of the centerline of the intersection of Marquette Street* to the Public Service Committee for study and report and to schedule a Public Hearing.

#9930

Councillor Christine Johnson, saying that the [Monty Tech Budget] issue “is a very touchy subject for the whole City,” moved to refer to the Council as Committee of the Whole a

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Measure Disapproving the Tentative 2019 Fiscal Year Operating and Maintenance Budget for the Montachusett Regional Vocational School District.

Councillor James Johnson seconded the motion.

Councillor James Johnson said that the Council discussed having Monty Tech officials appear before the Council to present their budget, so he suggested that this issue [measure] be addressed at the same time.

Councillor James Boone concurred with Councillor James Johnson's suggestion.

Councillor James Walsh expressed support for referring the Measure, saying that if the Monty Tech Administration can persuade him that it can justify the increased costs to the City of Gardner for its participation [in the District], then he would be receptive. He added that his first inclination is to support the Mayor's proposal and that the City has few opportunities under the District Agreement to show its displeasure.

Councillor Christine Johnson then withdrew her motion to refer the Measure and amended her motion to adopt the Measure. Councillor Nathan Boudreau seconded the motion.

On the motion, Councillor Christine Johnson stated that she changed her mind about referring the Measure, adding that that "things are very fluid within the Monty Tech Budget." She said that there was a Gardner student that had attended Monty Tech and now goes to Leominster and that Monty Tech is paying Leominster under School Choice. She suggested that the Council disapprove the Budget and to allow Monty Tech to come before the Council with additional information.

On the motion, it was voted viva voce, ten (10) yeas, President Scott Graves and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh; one (1) nay, Councillor James Boone, to adopt the following Measure:

DISAPPROVAL OF THE MONTY TECH OPERATING AND MAINTENANCE BUDGET
FOR THE 2019 FISCAL YEAR

VOTED: The City Council of the City of Gardner hereby votes to disapprove of the Tentative 2019 Fiscal Year Operating and Maintenance Budget for the Montachusett Regional Vocational School District, as voted on by the District School Committee on March 14, 2018, as allowed by Section 5(C) of the District Agreement.



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Presented to Mayor for Approval –May 22, 2018

Approved – May 25, 2018

MARK P. HAWKE, Mayor

REPORTS OF STANDING COMMITTEES

PUBLIC SERVICE COMMITTEE & PUBLIC WELFARE COMMITTEE

#9905

Councillor Christine Johnson, Chairperson of the Public Welfare Committee, informed the Council that the Committee is awaiting an opinion from the Law Department; therefore, she requested that the Council grant to the Committee more time to study the Measure. There being no objections, the Committee was granted more time.

Councillor Nathan Boudreau, Chairperson of the Public Service Committee, informed the Council that the Committee is awaiting an opinion from the Law Department; therefore, he requested that the Council grant to the Committee more time to study the Measure. There being no objections, the Committee was granted more time.

PUBLIC SAFETY COMMITTEE

Councillor James Johnson, Chairman of the Public Safety Committee, informed the Council that the Committee has not yet met to discuss the Ordinance; therefore, he requested that the Committee be granted more time to study the Measure. There being no objections, the Committee was granted more time.

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 600 THEREOF, ENTITLED "VEHICLES AND TRAFFIC."

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

Section 1. Section 600-24 of Chapter 600, Vehicles and Traffic, Parking Prohibited on certain streets, is amended by adding the following:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Sawyer Street	Both	From Dyer Street westerly for a distance of 665 feet

Section 2. This Ordinance shall take effect upon passage and publication as required by law.

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COUNCIL AS COMMITTEE OF THE WHOLE**#9898**

Councillor James Walsh moved to refer *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* back to the Planning Board in order to consider reducing the size of the proposed overlay district. Councillor Edward Gravel seconded the motion.

On the motion, Councillor Walsh said that that he did not understand the reason why this particular project, consisting of 20 to 30 acres contained in a parcel of 127 acres, would include an additional 73 acres, which would then become eligible for large-scale solar photovoltaic projects. He said that if any of the property owners within the proposed overlay district desire to develop solar arrays on their properties, then they can petition [the Council] to expand the district, similar to the proposed expansion of the West Street Solar Overlay District.

Councillor Walsh continued, saying that he does not see how the [proposed] overlay district is focused only on a particular project, especially in a Rural Residential District, where all parcels are protected under Chapter status and only small portion of the Dubzinski parcel is planned to be removed from Chapter 61. He added that "the whole topic of spot zoning is misplaced."

Councillor Christine Johnson noted that the City Council is in the midst of an entire Zoning Code update and that the overlay should be addressed when "the overall Zoning update is firmed up."

On the motion, on call of the roll, it was voted, eight (8) yeas, Councillors James Boone, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and James Walsh; three (3) nays, President Scott Graves and Councillors Nathan Boudreau and Elizabeth Kazinskas, to refer *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* back to the Planning Board to consider reducing the size of the proposed solar overlay district.

#9899

President Graves announced that the Committee of the Whole met earlier in the evening on *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 that the Committee of the Whole would need more time. There being no objections, the Committee was granted more time.

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#9909

President Graves announced that the Public Hearing on *A Petition by Cedar Hills Solar Portfolio to Amend the Code of the City of Gardner, Chapter 675 Thereof, Entitled "Zoning," to Expand the West Street Solar Photovoltaic Overlay District* is scheduled for June 4, 2018 at 6:00 p.m. There being no objections, the Committee of the Whole was granted more time.

UNFINISHED BUSINESS**#9899**

President Graves announced that the Planning Board filed its Final Report relating to *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."*

#9912

Councillor James Walsh read aloud the Mayor Hawke's letter requesting that the amount of the Proposition 2½ Override be reduced to \$601,947.00 from the amount adopted in the Measure. He then moved to reconsider #9912 with the intent to reduce the amount as proposed by the Mayor.

Councillor Ronald Cormier seconded the motion.

On the motion, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to reconsider #9912.

Councillor James Walsh moved to amend #9912 by replacing "\$700,000.00" with "601,947.00." Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Christine Johnson expressed concern that the proposed amount for the override is based on the FY2019 Budget and that the override is proposed for the FY2020 Budget. She said that she supports the measure, but added that she is worried that next year, the Council will again be asked to vote to place another override question on a special election ballot since the school budget "will be going up."

On the motion, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to pass the following Order:



REGULAR MEETING OF MAY 21, 2018

RELATIVE TO A PROPOSITION 2½ QUESTION
TO BE PLACED ON THE
NOVEMBER 6, 2018 STATE ELECTION BALLOT

ORDERED:

That the following Question be placed on the November 6, 2018 State Election Ballot:

Shall the City of Gardner be allowed to assess an additional \$601, 947.00 in real estate and personal property taxes for the purposes of funding the School Department for the fiscal year beginning July 1, 2019?

Yes ●
No ●

Presented to Mayor for Approval – May 22, 2018
Approved – May 25, 2018
MARK P. HAWKE, Mayor

#9922

Councillor James Walsh moved to pass the following Ordinance:

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

REGULAR MEETING OF MAY 21, 2018

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.

Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Edward Gravel said that he was recently approached by one citizen who asked why the Council needed its own Legal Counsel, adding that he is unclear how the operation is run. He then directed his question to Councillor Walsh.

Councillor Walsh deferred to President Graves to respond to the inquiry.

President Graves informed the Council that he submitted two treatises to the Councillors on the matter in which he cited the system of checks and balances between the Executive Branch and the Legislative branches of government. He noted that there are occasions where the Legislative branch disagrees with the Executive branch on a legal matter, but that the Legislative branch can rely only on the City Solicitor, the Mayor's appointee and a position in which the City Council has no confirming authority.

President Graves continued, saying that the Solicitor's legal opinion "is just his opinion" and that the Council may require a second and independent opinion. He said that the only way to resolve such a dispute is by seeking Declaratory Judgment in Court, whose decision is binding. He added that some Massachusetts communities provide the Council with its own Counsel.

Councillor Gravel questioned the mechanism for paying for Legislative Counsel.

President Graves responded, saying that the cost is provided for in the Council's budget and then may draw funds as the Council determines its need.

Councillor Walsh added that if the Mayor does not provide funding in the Council's budget, then then the Council has alternatives.

Councillor Kazinskas questioned the cost for legislative counsel.

President Graves responded, saying that \$5,000 was requested of the Mayor. He added that the City Solicitor has \$2,500 budgeted in the Law Department's Budget for Outside Counsel.

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Councillor Ronald Cormier said that the Council “will wait and see” if the Mayor vetoes the Ordinance and added that the Mayor would “zero-out” the Council’s budget line item for Legislative Counsel.

Councillor Christine Johnson stated that she spoke with people about this issue and explained that Legislative Counsel protects the Council in the event that it disagrees with the City Solicitor’s opinion, since it has no ability to challenge his opinion.

Councillor Kazinskas asked when the Council would need legal counsel.

Councillor James Walsh cited the EMS issue [“local jurisdiction”] where the City Council disagreed with the City Solicitor’s opinion with directly involved the role of the City Council, but that the Law Department said otherwise. He said that Councillor Graves went to Court [to represent the Council’s interests], but “he did not have standing” and that there was no legal counsel to represent the City Council’s position.

On the motion, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to pass the following Ordinance:

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.

REGULAR MEETING OF MAY 21, 2018

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.

In City Council – May 7, 2018

Ordered Printed – May 7, 2018

First Printing – May 11, 2018

Ordinance Passed – May 21, 2018

Presented to Mayor for Approval – May 22, 2018

Disapproved – May 30, 2018

MARK P. HAWKE, Mayor

NEW BUSINESS

On a motion by Councillor Christine Johnson and seconded by Councillor Nathan Boudreau, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to consider New Business.

RECOGNITION**#9931**

On a motion by Councillor Nathan Boudreau and seconded by Councillor Craig Cormier, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to send a Letter of Appreciation to Deputy Chief of Police John Bernard on the occasion of his Retirement.

#9932

On a motion by Councillor Edward Gravel and seconded by Councillor James Johnson, it was voted viva voce, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to send a Letter of Appreciation to Assistant City Clerk Titi Siriphan for her service to the City.

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ANNOUNCEMENTS AND COMMENTARY

Councillor James Boone stated that someone said, “Why not put the issue on the ballot?” and the City paid “\$146,000 for a study of the athletic fields?” He questioned the reason that the City Engineer could not have done the study and added, “It was an awful expensive study.”

Councillor Christine Johnson stated that the schools owe due diligence to raise funds- owe money for the stands and the fields – money could be raised for maintenance.

Councillor Edward Gravel stated that his “no vote” was to show support for the teachers and the kids.

Councillor James Johnson said that the Council’s Agenda is distributed on the Thursday prior to a City Council meeting, so that people can contact their Councillors on issues before the meetings. He added that he “enjoys the passion,” but that it must be tempered with reason and judgment.

Councillor Christine Johnson stated that she remembered that one year ago, the Mayor extended the contract for the ambulance service for another year and suggested that the Safety Committee meet with the Mayor to discuss the matter.

Councillor Elizabeth Kazinskas announced that the 2nd Annual Food Truck Festival will be held on Saturday, June 9 on City Hall Plaza.

President Scott Graves announced that the Memorial Day Ceremonies are scheduled for Monday, May 28, 2018 on City Hall Plaza.

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, eleven (11) yeas, President Scott Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to adjourn at 9:01 o’clock p.m.

Accepted by the City Council: *June 4, 2018*