City of Gardner, Massachusetts
Office of the City Council

RECEIVED
APR 02 2020
12:05pm
By City Clerk

CALENDAR FOR THE MEETING
of
MONDAY, APRIL 6, 2020
COUNCIL CHAMBER
7:30 P.M.

ORDER OF BUSINESS

I. CALL TO ORDER

II. CALL OF THE ROLL OF COUNCILLORS

III. ELECTION OF COUNCIL PRESIDENT

IV. OPENING PRAYER

V. PLEDGE OF ALLEGIANCE

VI. ANNOUNCEMENT OF OPEN MEETING RECORDINGS

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

VII. READING OF MINUTES OF PRIOR MEETING(S)

Reading and Approval of the Minutes of the March 16, 2020 Regular Meeting.

VIII. PUBLIC HEARINGS

IX. COMMUNICATIONS FROM THE ACTING MAYOR

X. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

10257 – Communication from Council President Walsh submitting his resignation as Council President.

10258 – An Order Rescheduling the Special City Preliminary Election and Special City Election.

10259 – A Ruling from the Attorney General relative to an Open Meeting Law Complaint *(Finance Committee).*

10260 – A Petition by National Grid for permission to install one (1) SO Pole on East Broadway beginning at a point approximately115' southeast of the centerline of Prospect Street *(Public Service Committee)(Public Hearing Required).*

10261 – An Ordinance to Amend the Code of the City of Gardner, Chapter 171 Thereof, Entitled "Personnel," to Change Compensation Schedule, Exhibit A, Acting Mayor *(Filed by Councillor Ronald Cormier).*

X. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

10262 – A Communication from the Gardner Contributory Retirement Board relative to a cost-of-living adjustment for retirees and beneficiaries.

XI. REPORTS OF STANDING COMMITTEES

PUBLIC SAFETY COMMITTEE

10254 – An Ordinance Amending the Code of the City of Gardner, Chapter 600 Thereof, Entitled "Vehicles and Traffic," Section 600-24, Parking Prohibited on Certain Streets, Nutting Street *(In City Council and Referred to Public Safety, 3/16/2020).*

PUBLIC WELFARE COMMITTEE

10252 – A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1 *(In City Council and Referred to the Public Welfare Committee and Planning Board, 3/2/2020).*

FINANCE COMMITTEE

10250 – An Order Appropriating $52,788.00 from Free Cash to FY2019 Firefighters Salary and Wages Account *(In City Council and Referred to Finance, 3/2/2020).*

10251 – An Order Appropriating $54,818.67 from Free Cash to the Firefighters Salary and Wages Account *(In City Council and Referred to Finance, 3/2/2020).*

XII. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION

10252 – A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1 *(In City Council and Referred to the Planning Board and Public Welfare Committee, 3/2/2020).*

XIII. NEW BUSINESS

XIV. CLOSING PRAYER

XV. ADJOURNMENT

Items listed on the Council Calendar are those reasonably anticipated by the Council President to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

CITY OF GARDNER IN CITY COUNCIL

REGULAR MEETING OF MARCH 16, 2020

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 16, 2020.

CALL TO ORDER

Council President James Walsh called the meeting to order at 7:30 o'clock p.m. and announced that Councillor Craig Cormier would participate remotely due, in part, to the Governor's State of Emergency Order, and that all votes taken would be by roll call.

CALL OF THE ROLL

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present including President James Walsh and Councillors Nathan Boudreau, Craig Cormier (remotely), Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros. Councillor James Boone was absent.

OPENING PRAYER

President Walsh led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

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

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

President Walsh 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 Elizabeth Kazinskas, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to waive reading and to accept the Minutes of the March 2, 2020 Regular Meeting, as printed.

COMMUNICATIONS FROM THE ACTING MAYOR

ORDER

#10253

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the appropriation would supplement the construction of a 6-unit T-Hangar at the Airport. The Airport Commission, he said, is confident that the hangar will generate about $20,000 annually in revenue. In addition, he reported that the first half of the City's share was paid in 2015, but

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then the bids came in higher that estimated, so the Federal and State Government agreed to greater participation in the project. Ultimately, he said, the additional appropriation from the City would realize the City's share at 3.3%, with the Federal government contributing 90% and the State government assuming the difference.

Continuing, Councillor Cormier reported that the contracts have been awarded; that the State's portion must be completed by July 1, 2020; and, that the construction would continue after that date. Concluding, he said that the Engineer is confident that the work [State share] can be done by that date, so the Finance Committee believes that the funding must be appropriated at this time. The Airport is trying to be self-sufficient, so with the hangar revenue, it should achieve that goal, he added.

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to pass the following Order:

> AN ORDER APPROPRIATING FROM FREE CASH TO AIRPORT PROFESSIONAL SERVICES.
>
> ORDERED: That there be and is hereby appropriated the sum of Twenty Four Thousand Nine Hundred Twenty-nine Dollars and No Cents ($24,929.00) from Free Cash to Airport Professional Services.

Presented to the Acting Mayor for Approval – March 17, 2020
Approved – March 17, 2020
JAMES M. WALSH, Acting Mayor

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

#10254

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Elizabeth Kazinskas, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to refer the following Ordinance to the Public Safety Committee for study and report:

> 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:

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Name of Street	Side	Location
Nutting Street	Both	Entire length

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

REPORTS OF STANDING COMMITTEES

PUBLIC WELFARE COMMITTEE

#10252

There being no objections, the Public Welfare Committee was granted more time to study and report on *A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1*.

FINANCE COMMITTEE

#10250

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Acting Mayor is seeking a Judicial Determination, so the Committee seeks more time. There being no objections, the Finance Committee was granted more time to study and report on the following Order:

> AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES FY2019 ACCOUNT.
>
> ORDER: That there be and is hereby appropriated the sum of Fifty-Fifty-two Thousand Seven Hundred Eighty-eight and 33/100 ($52,788.33) from Free Cash to the Fiscal 2019 Firefighters Salary and Wages Account.

#10251

There being no objections, the Finance Committee was granted more time to study and report on the following Order:

> AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES ACCOUNT.
>
> ORDER: That there be and is hereby appropriated the sum of Fifty-four Thousand Eight Hundred Eighteen and 67/100 ($54,818.67) from Free Cash to the Firefighters Salary and Wages Account.

UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION

#10207

On the motion by Councillor Scott Joseph Graves and seconded by Councillor Karen Hardern, on call of the roll, it was as voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to pass the following Ordinance:

UNACCEPTED/UNCORRECTED PROOF

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO REVISE ARTICLE VI, DENSITY AND DIMENSIONAL REGULATIONS, AND ARTICLE X, SUPPLEMENTAL REGULATIONS.

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

Section 1. Section 675–610. General Requirements, Section F, of the Code of the City of Gardner, is amended by deleting and repealing Section F in its entirety and inserting in place thereof, the following:

> Within an area formed by the curb lines of intersecting streets and a line joining points on such lines 30 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 feet and a height of eight feet above the plane through their street grades.

Section 2. Section 675–1050. Fences and hedgerows, is hereby amended by deleting and repealing Section 675-1050 in its entirety and inserting in place thereof, the following:

> Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 3 feet above the street grade within an area formed by the intersecting curb lines and straight line joining the point of said curb line 30 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the streets shall not be allowed to block vision over 3 feet above the street grade for a distance of 15 feet along driveways immediate in location.

Section 3. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.

In City Council – November 18, 2019
Ordered Printed – March 2, 2020
First Printing – March 6, 2020
Ordinance Passed – March 16, 2020
Presented to the Acting Mayor for Approval – March 17, 2020
Referred for Presentation to Elected Mayor* – March 17, 2020
JAMES M. WALSH, Acting Mayor

**See Dimick v. Barry, 211 Mass. 165 (1912)*

#10216

Councillor Craig Cormier moved to pass the following Ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 560 THEREOF, ENTITLED "SOLID WASTE," TO CHANGE THE FEE FOR SOLID WASTE COLLECTION.

UNACCEPTED UNCORRECTED PROOF

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

Section 1. Section 560-3 B. of the Code of the City of Gardner, is hereby amended by deleting and repealing the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the following: "For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and each unit of apartment buildings containing eight or fewer units in the City shall be, as follows:

Effective July 1, 2020	$228.00
Effective July 1, 2021	$232.00
Effective July 1, 2022	$236.00
Effective July 1, 2023	$240.00

Section 2. Effective date.

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

Councillor Elizabeth Kazinskas seconded the motion.

On the motion, Councillor Scott Joseph Graves moved to amend, as follows:

Section 1. Section 560-3 B of the Code of the City of Gardner, is hereby amended by deleting and repealing the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the following: "For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and *the annual fee for each apartment, as defined in Section 560-2, subject to the requirements of Section 560-3D and Section 560-4A regarding multifamily dwellings with 9 apartments or more,* shall be, as follows:

Effective July 1, 2020	$228.00
Effective July 1, 2021	$232.00
Effective July 1, 2022	$236.00
Effective July 1, 2023	$240.00

Councillor Karen Hardern seconded the motion.

Citing his comments submitted in writing to each Councillor, Councillor Graves provided the following:

As I said at our last City Council Meeting on March 2, 2020, the problems with the First Printing version of Public Safety Committee's recommended Solid Waste Collection and Disposal ordinance amendment (Code Section 560), and there are many more, include the following:

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1. We do not know what the term "unit of apartment buildings" means. It is not in the Definitions Section (Section 560-2). It is not found in our Zoning "Table of Uses."
2. We do not know what the term "apartment buildings" means. It is not defined in this Code. In the Zoning Code (Code Section 675), the terminology is "multifamily dwelling."
3. We do not know what the word "unit" means. It is not in the Definitions Section (Section 560-2). The word "apartment" is defined [see next comment].
4. "Apartment" is already in the Definitions Section (Section 560-2).
5. So, we must use the word "apartment" instead of "unit."
6. As passed to First Printing, Safety Committee's proposed amendment deprives the owners of dwellings with 9 or more apartments from the right to take part in the solid waste collection system. Right now, it is allowed pursuant to the procedure outlined in 560-3D.

He added that he kept the fee schedule in his amendment, although he would not vote for it.

On the motion, on call of the roll, three (3) yeas, President Walsh and Councillors Scott Graves and Karen Hardern; seven (7) nays, Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Elizabeth Kazinskas, Judy Mack, and George Tyros, the amendment did not pass.

On the motion, on call of the roll, it was voted nine (9) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros; one (1) nay, Councillor Scott Joseph Graves, to pass the following Ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 560 THEREOF, ENTITLED "SOLID WASTE," TO CHANGE THE FEE FOR SOLID WASTE COLLECTION.

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

Section 1. Section 560-3 B. of the Code of the City of Gardner, is hereby amended by deleting and repealing the sentence: "The annual fee for the collection and handling of rubbish, garbage, ashes and source-separated materials is set at $200 per apartment unit per building, effective July 1, 2013," and by inserting in place thereof, the following: "For the collection and handling of rubbish, garbage, ashes and source-separated materials, the annual fee for each household and each unit of apartment buildings containing eight or fewer units in the City shall be, as follows:

UNACCEPTED/UNCORRECTED PROOF

Effective July 1, 2020	$228.00
Effective July 1, 2021	$232.00
Effective July 1, 2022	$236.00
Effective July 1, 2023	$240.00

Section 2. Effective date.

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

In City Council – December 2, 2019
Ordered Printed – March 2, 2020
First Printing – March 6, 2020
Ordinance Passed – March 16, 2020
Presented to the Acting Mayor for Approval – March 17, 2020
Referred for Presentation to Elected Mayor* – March 17, 2020
JAMES M. WALSH, Acting Mayor

**See Dimick v. Barry, 211 Mass. 165 (1912)*

Following the vote, Councillor Graves stated that he had a request for information under Robert's Rules of Order. He said that on the item that the Council just passed, "It does require the approval of the Mayor, correct?"

President Walsh responded by saying that it has to be presented to the Mayor, as stated in the Charter. "It's a Charter provision, not a Robert's Rule," he added.

Councillor Graves added that it is State Law, too.

NEW BUSINESS

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Nathan Boudreau, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to consider New Business.

#10255

President Walsh read aloud correspondence that he filed with the City Council as Acting Mayor, as follows:

Dear Councilors,

I am submitting a Money Order in the amount of $100,000 to cover potential extraordinary expenses associated with our efforts to minimize and mitigate the potential spread of the COVID-19 virus.

Although it is impossible to know, at this time, exactly what these extraordinary expenses might be, I think it is wise to establish a pool of funds that can be accessed in the event that

UNACCEPTED/UNCORRECTED PROOF

existing budgets for these items become exhausted. These expenses may include disinfectant hand soaps, disposable gloves, hand sanitizers, masks, paper towel products, portable hand washing stations, sanitizing cleaning services and sanitizing wipes.

We may also incur expense for the need to establish remote meeting locations that would require the purchase of potentially expensive equipment. Many if not all of these expenses may be reimbursable to the City based on the President's Declaration of a National Emergency. By having all of these extraordinary expenses paid from a single unclassified account, it will make the submission request for reimbursement much easier.

I realize that this is a request that must be considered under New Business and thus would require eight votes. I am hopeful, however, that you will understand that we are experiencing unusual circumstances at the present time and I want the City to be as prepared as possible to face the challenges ahead.

Thank you for your consideration.

James M. Walsh
Acting Mayor

Councillor Graves moved the Order. Councillor Boudreau seconded the motion.

On the motion, Councillor Judy Mack questioned whether the various supplies would be made available to the First Responders.

In response, President Walsh stated that any City department that shows a need is eligible, adding that the Purchasing Department is in the process of trying to procure many items that are in short supply.

Councillor Mack added that First Responders have other sources for critical supplies, sources which the average citizen may not have.

On the motion, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to adopt the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO MAYOR'S UNCLASSIFIED-VIRUS PANDEMIC SERVICES/COVID-19 EXPENDITURES.

ORDERED: That there be and is hereby appropriated the sum of One Hundred Thousand Dollars and No Cents ($100,000.00) from Free Cash to Mayor's Unclassified – Virus Pandemic Services/COVID-19 Expenditures.

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Presented to the Acting Mayor for Approval – March 17, 2020
Approved – March 17, 2020
JAMES M. WALSH, Acting Mayor

Councillor Nathan Boudreau suggested that everyone stay at home, to be safe, to practice social distancing, and to wash your hands. He added that that when the time comes, the Acting Mayor should declare a local state of emergency, as it would be easier to obtain FEMA and MEMA funds.

Councillor Scott Graves said that as we know, government proceeds and we are supposed to carry on through whatever is going on. He added that he noticed that the Calendar for the meeting has a new notice at the bottom, so he assumed that that final notice was approved by the Acting Mayor.

Council President and Acting Mayor Walsh replied, "It was ratified."

Councillor Tyros recommended that "everyone be a good neighbor and to take care and we will get through this."

President Walsh informed the Council that it has been a busy time for him in his role as Acting Mayor, noting that he spent a delightful 69th birthday on Saturday at City Hall.

Continuing, President Walsh cited Councillor Boudreau's comment about declaring a local State of Emergency, said that the fact that the Governor declared a State of Emergency and that the President issued a Declaration of Emergency establishes the basis upon which reimbursements become available, irrespective of whether the local community does so. He said that had they not done so, then the local emergency declaration would have more significance.

Continuing, President Walsh stated that City Hall has been closed to the public, but that municipal services continue through mail, e-mail, telephone, and the City's website. On the website, he said, there is a webpage dedicated to COVID-19 information and resources which is updated as new information becomes available, as well as a link to Heywood Hospital. He said that Win Brown, President and CEO of Heywood Hospital, is providing twice-daily videos with updates related to the COVID-19 outbreak. He added that the City is doing everything that it can to continue providing City services and with information helpful to residents.

CLOSING PRAYER

President Walsh led the Council in the Closing Prayer.

UNACCEPTED/UNCORRECTED PROOF

ADJOURNMENT

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Aleksander Dernalowicz, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to adjourn at 7:55 p.m.

Accepted by the City Council:

UNACCEPTED/UNCORRECTED PROOF

10257

PRESIDENT
James M. Walsh, Esq.

COUNCILLORS AT LARGE
James S. Boone
Craig R. Cormier
Ronald F. Cormier
Scott Joseph Graves, Esq.
Judy A. Mack
George C. Tyros

WARD 1 COUNCILLOR
James M. Walsh, Esq.

WARD 2 COUNCILLOR
Elizabeth J. Kazinskas

WARD 3 COUNCILLOR
Nathan R. Boudreau

WARD 4 COUNCILLOR
Karen G. Hardern

WARD 5 COUNCILLOR
Alek Dernalowicz, Esq.

CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY COUNCIL

RECEIVED
APR 02 2020
11:55 A.M.
By CITY CLERK

April 2, 2020

Dear Councillors:

When I accepted the position of City Council President on January 6, 2020, I understood and expected that at some point I would also serve as Acting Mayor. What I did not expect or anticipate was the worldwide pandemic presented by the COVID-19 virus and the serious health risks presented by it.

Over the past few days, I have been warned by my healthcare professionals about the risks that I face both because of my age, 69, but also and more importantly because of the underlying medical condition that I have of coronary artery disease and the associated major surgery I underwent 2 years ago. I've learned that not only am I at elevated risk for contracting the virus, but also that if I do get it the potential complications are very serious. As a result, and after careful discussions with my healthcare providers as well as my family, I've decided to step down as City Council President. I've considered the option of trying to do the job of Acting Mayor remotely, but I don't believe that that is feasible. I take this step reluctantly but decisively and will, of course, remain the Councillor for Ward 1.

I want to thank the members of the City Council for the confidence you placed in me in taking this position. I also want to thank all of the municipal employees with whom I've worked in my capacity as Acting Mayor. We are fortunate to have such a hard-working, professional and dedicated staff here in the City of Gardner.

Thus, I hereby submit my resignation as City Council President to be effective on Monday, April 6, 2020 at 7:30 p.m.

Very truly yours,

James M. Walsh

10258

CITY OF GARDNER, MASSACHUSETTS

SPECIAL MUNICIPAL PRELIMINARY ELECTION ORDER

AND

SPECIAL MUNICIPAL ELECTION ORDER

ORDER: That meetings of the citizens of this City qualified to vote for City officers shall be held on TUESDAY, the _____ DAY of _____, 2020 from __:00 o'clock in the morning until 8:00 o'clock in the evening for the purpose of casting their votes for the nomination of Mayor to serve for the unexpired term.

ORDER: That meetings of the citizens of this City qualified to vote for City officers shall be held on TUESDAY, the ____ DAY of ____, 2020 from __:00 o'clock in the morning until 8:00 o'clock in the evening for the purpose of casting their votes for Mayor to serve for the unexpired term.

ORDERED: It is further ordered that the following polling places are designated by this Council:

WARD 1, PRECINCT A – Elk's Home, 31 Park Street
WARD 1, PRECINCT B – Elk's Home, 31 Park Street
WARD 2, PRECINCT A – Levi Heywood Memorial Library, 55 W Lynde Street
WARD 2, PRECINCT B – Levi Heywood Memorial Library, 55 W Lynde Street
WARD 3, PRECINCT A – Acadien Social Club, 193 Parker Street
WARD 3, PRECINCT B – [redacted]
WARD 4, PRECINCT A – Gardner Police Headquarters, 200 Main Street
WARD 4, PRECINCT B – Gardner Police Headquarters, 200 Main Street
WARD 5, PRECINCT A – Knights of Columbus Hall, 110 South Main Street
WARD 5, PRECINCT B – Knights of Columbus Hall, 110 South Main Street

BY ORDER OF THE CITY COUNCIL

FOR DISCUSSION PURPOSES ONLY

10259

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

TEL: (617) 727-2200
www.mass.gov/ago

RECEIVED
2020 MAR 16 AM 9:42
CITY CLERK'S OFFICE
GARDNER, MA

March 13, 2020

OML 2020 – 36

Scott Joseph Graves, Esq.
President, Gardner City Council
95 Pleasant Street
Room 121
Gardner, MA 01440

RE: <u>Open Meeting Law Complaint</u>

Dear Attorney Graves:

This office received two complaints from Paul DeMeo on October 10[1], alleging that the Gardner City Council (the "Council") and City Councilor Christine Johnson[2] violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaints were originally filed with the Council on or about September 5 and 6. You responded on behalf of the Council on October 22.[3] In his complaints, Mr. DeMeo alleges that the Council deliberated outside of a properly posted meeting via email on two occasions,[4] and that Councilor Johnson retaliated against him for filing an Open Meeting Law complaint by making offensive and harassing comments on Facebook.[5]

Following our review, we find that the Council violated the Open Meeting Law when Councilor Johnson copied the entirety of the Council on an email response dated September 4. In

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[1] All dates are in 2019, unless otherwise stated.
[2] We understand that Ms. Johnson is no longer a member of the Council.
[3] We note that the Council's response was not timely. Our office granted the Council an extension of time until October 10 to respond to the complaint. We remind the Council of its obligation under the Open Meeting Law to review and respond to Open Meeting Law complaints within fourteen business days, or, if an extension has been granted, by the date allowed for by our office. G.L. c. 30A, § 23(b); 940 CMR 29.05(5).
[4] The September 5 complaint relates to, in part, an email response that Councilor Johnson sent to the Complainant on which Councilor Johnson copied the entirety of the Council as well as several other officials and individuals. That email was sent on August 1, more than thirty days prior to the filing of the September 5 complaint. Because the September 5 complaint, as it relates to the August 1 email, was not timely filed with the Council, we decline to review the allegation relating to the August 1 email. G.L. c. 30A, § 23(b); 940 CMR 29.05(4).
[5] An allegation of unprofessional conduct or incivility towards a member of the public does not constitute a violation of the Open Meeting Law. Thus, we decline to review the allegations regarding Councilor Johnson's Facebook remarks. See OML 2019-166; OML Declination 6-28-16 (Kingston Board of Selectmen).

reaching this determination, we reviewed the original Open Meeting Law complaints, including the evidence attached thereto; the Council's response; minutes of the Council's September 3 meeting; and the City's municipal website. We also communicated with the Complainant by email.

FACTS

On September 3, the Complainant addressed an email to the Mayor of Gardner, Mark Hawke, regarding, among other things, the Complainant's concerns about pay inequity in the City of Gardner and a Council vote that day to order the first printing of an ordinance that would reduce the salary of the newly appointed City Treasurer/Collector. Also copied on the Complainant's email were all eleven members of the Council, including Councilor Johnson, the newly appointed City Treasurer/Collector, other government officials, several news outlets, and various individuals. On September 4, Councilor Johnson responded to the Complainant's email, copying all recipients included on the Complainant's original email, including the other ten Council members. In her response, Councilor Johnson, among other things, defended the Council's vote to reduce the City Treasurer/Collector's salary and stated that inaccurate information had been provided at the Council's September 3 meeting. At the time of the email exchange, the City Treasurer/Collector's proposed salary was still on the Council's agenda for a future vote.

DISCUSSION

The Open Meeting Law was enacted "to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based." Ghiglione v. School Committee of Southbridge, 376 Mass, 70, 72 (1978). The Law requires that meetings of a public body be noticed and open to the public, unless an executive session is convened. G.L. c. 30A, §§ 20(a)-(b), 21. A "meeting" is defined, in relevant part, as "a deliberation by a public body with respect to any matter within the body's jurisdiction." G.L. c 30A, § 18. The law defines "deliberation" as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that 'deliberation' shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting [sic] or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed." Id. A one-way communication from one public body member to a quorum of public body members on business within a body's jurisdiction is deliberation, even if no other members respond. See OML 2015-33.[6] For purposes of the Open Meeting Law, a quorum is "a simple majority of the members of the public body." G.L. c 30A, § 18.

Here, we find that Councilor Johnson engaged in impermissible deliberation outside of a public meeting when she copied the entire Council on her September 4 email expressing her thoughts and opinions on a matter within the Council's jurisdiction. The Council argues that Councilor Johnson's email could be construed as "administrative communication" because "the gravamen and substantial gist of [her] email comments merely reiterated what she stated at the

[6] Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

public City Council Meeting of Sept. 3 . . .." This argument is unavailing.[7] First, Councilor Johnson's email was not a mere reiteration of statements she had made at the September 3 meeting. While it is clear from the September 4 email that Councilor Johnson had not changed her mind regarding the Council's vote in the intervening day, her email addressed topics and included comments not previously addressed or made by Councilor Johnson. For example, in the September 4 email Councilor Johnson expressed her belief that the Complainant had a grudge against the Mayor, and her belief that the Mayor was upset by comments made at the September 3 meeting. Second, even if Councilor Johnson's email had only restated points she had made at the September 3 meeting, the September 4 email would still not be considered an "administrative communication." We construe the administrative exclusion from the definition of deliberation narrowly. See OML 2019-78; OML 2020-15. Here, where the communication served no administrative purpose (such as scheduling a meeting or distributing a report), but rather consisted entirely of a Council member's thoughts and opinions regarding a matter before the Council, the communication did not fall within the administrative exclusion. Therefore, we find that the Council deliberated outside of a properly noticed meeting via email on September 4 in violation of the Open Meeting Law.

CONCLUSION

For the reasons stated above, we find the Council violated the Open Meeting Law by improperly deliberating via email on September 4. We order immediate and future compliance with the Open Meeting Law, and caution that similar violations in the future may be considered evidence of intent to violate the Law. 940 CMR 29.02. We also order that the Council release the September 4 email referenced in this letter to the public within 30 days following its receipt of this determination.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints which may be pending with our office or the Council. Please feel free to contact our office at (617) 963-2540 if you have any questions.

Sincerely,

Elizabeth Carnes Flynn
Assistant Attorney General
Division of Open Government

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[7] In making this argument, the Council relies heavily on an earlier determination issued by this office, OML 2013-130. Reliance on this determination is flawed in two manners. First, OML 2013-130 is not analogous to the facts presented here. The Council appears to rely on the portion of OML 2013-130 in which we found no violation when the Chair of a public body emailed a quorum of the public body the prepared written remarks he had already presented during an earlier open meeting. That is not what happened in this case. Here, Councilor Johnson engaged in a fresh debate with the Complainant, expressing her thoughts and opinions regarding pay inequity in the City of Gardner and the Council's vote to reduce the salary of the newly appointed City Treasurer/Collector. Second, our office has refined its guidance on some of the issues presented in OML 2013-130 in light of the Supreme Judicial Court's decision in Boelter v. Wayland Board of Selectmen, 479 Mass. 233 (2018), which held that public body members may not communicate opinions to each other outside of a noticed meeting. See G.L. c. 30A, § 18; AGO FAQ on Deliberation and Electronic Communication.

cc: John Flick, Esq.
Gardner City Council
Paul DeMeo

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.

10260

RECEIVED
2020 MAR 30 PM 12:10
CITY CLERK'S OFFICE
GARDNER, MA

Questions contact – Kim Tavallaimola 508-860-6448

PETITION FOR POLE AND WIRE LOCATIONS

North Andover, Massachusetts

To the City Council
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a National Grid requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

East Broadway - National Grid to install 1 SO Pole on East Broadway beginning at a point approximately 115' feet southeast of the centerline of the intersection of Prospect Street. Install 1 SO pole 4-2, sidewalk anchor/guy for customer electrical upgrade.

Location approximately as shown on plan attached

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – East Broadway - Gardner – Massachusetts.

No.# 27407276 March 26, 2020

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.

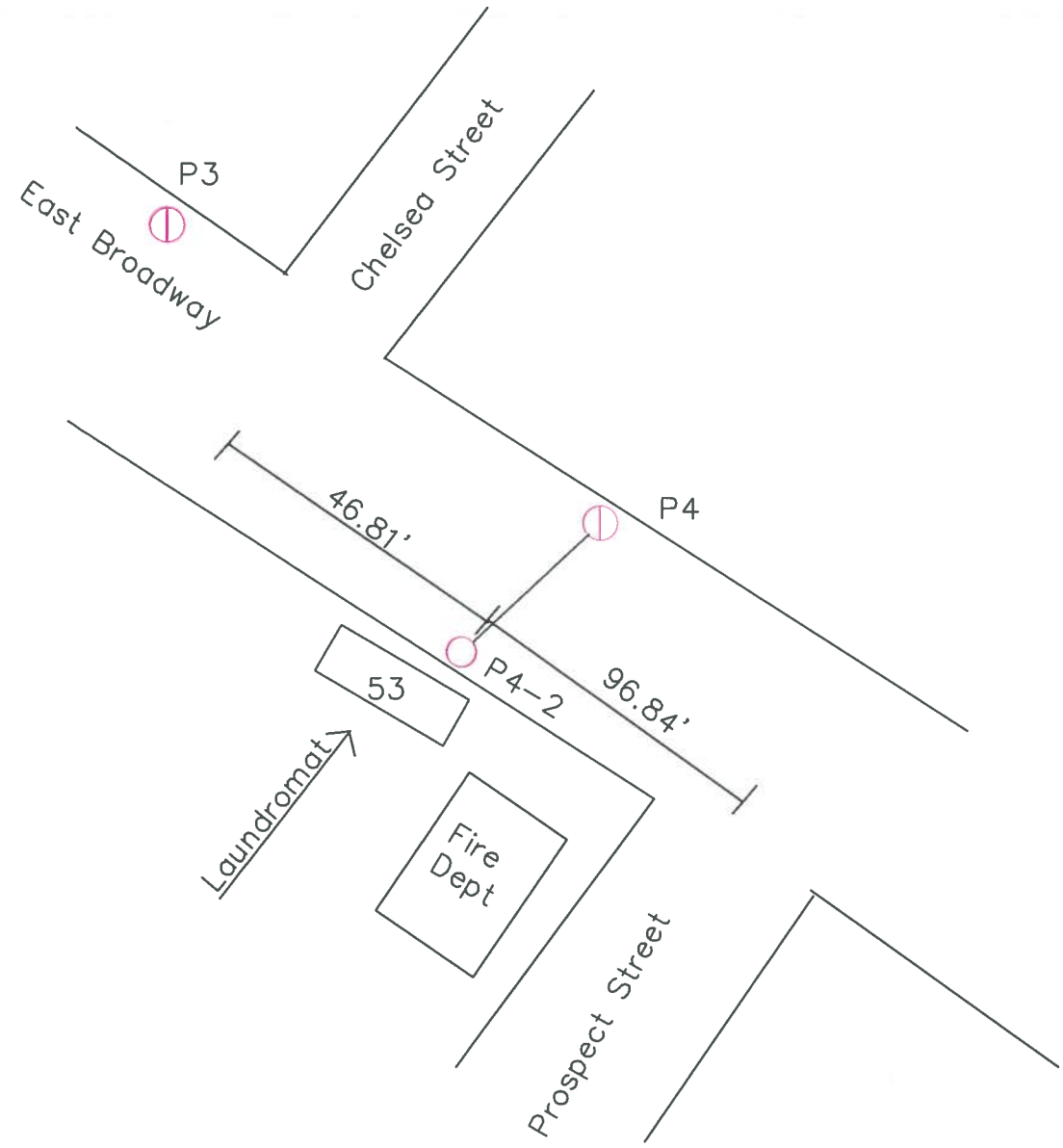
Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a National Grid
BY Pat Cody
Engineering Department

10260

RECEIVED
2020 MAR 30 PM 12:10
CITY CLERK'S OFFICE
GARDNER, MA

EXHIBIT 'A' NOT TO SCALE
THE EXACT LOCATION OF SAID FACILITIES TO BE ESTABLISHED BY AND UPON THE INSTALLATION AND ERECTION OF THE FACILITIES THEREOF.



LEGEND

- Existing JO Pole
- Proposed SO Pole
- Overhead Line

53 East Broadway
Petition
53 East Broadway Gardner, MA
New pole for business

Date: 03/26/2020
Designer: Kim Tav
W/R: 27407276

nationalgrid

10261

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 171 THEREOF, ENTITLED "PERSONNEL" TO CHANGE COMPENSATION SCHEDULE EXHIBIT A.

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

Section 1. Section 171-68 of Chapter 171, Personnel, of the Code of the City of Gardner is hereby amended by deleting and repealing Compensation Schedule Exhibit A and inserting in place thereof, the following:

Exhibit A

Mayor
Effective 1-2-2018
$92,196.00

Acting Mayor
Effective 1-1-2020
75% of the Mayor's Compensation

Section 2. Effective date.

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

10262

GARDNER CONTRIBUTORY RETIREMENT SYSTEM

CITY HALL 95 PLEASANT ST. GARDNER, MA 01440-2691
PHONE 978-630-4006 • FAX 978-630-4012

March 31, 2019

RECEIVED
2020 MAR 31 AM 11:06
CITY CLERK'S OFFICE
GARDNER, MA

City of Gardner
City Council
City Hall
Gardner, MA 01440

RE: FY'21 COLA GRANTED

Dear Councilors:

At the Gardner Retirement Board meeting held on March 26, 2020, the Board voted to grant a Cost of Living Adjustment for FY 2021. The Board elected a 3% increase in accordance with M.G.L. Chapter 32, Section 103(i).

Effective July 1, 2020, each retiree and beneficiary receiving an allowance effective June 30, 2019, will receive a 3% cost of living increase on the first $13,000.00 of their annual retirement allowance.

If you have any questions, please contact me.

Very truly yours,

Denise M. Merriam
Board Chairperson

cc: Acting Mayor Walsh
S. Mullins, Director GHA

10254

ORDINANCE

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:

Name of Street	Side	Location
Nutting Street	Both	Entire length

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

10254

CITY OF GARDNER POLICE DEPARTMENT

200 Main Street, Suite 214
Gardner, Massachusetts 01440

Phone: (978) 632-5600
Fax: (978) 630-4027

James F. Trifiro Jr.
Deputy Chief of Police
Email: JTrifiro@gardner-ma.gov

March 10th, 2020

Gardner City Council Members,

In September of 2019, the members of the Traffic Commission discussed concerns received from a resident of South Gardner related to roadside parking complaints on Nutting Street. This information generated a dialogue that questioned if motor vehicles were legally parking or, could roadside parking create obstructions and conceivably affect the safe transit of motor vehicles along the travel route. According to Gardner City Code(s) 567-8/Specifications, in combination with 600-21/General Prohibitions, roadways shall have a width of not less than 28 feet and parking of a motor vehicle should leave a clear and unobstructed lane at least 10 feet wide for passing traffic. Given that the configuration of Nutting Street has a two way traffic pattern, and designated parking spots are required to be 8 feet wide it would be most relevant to have 28 feet in roadway width to meet the Gardner City Code(s) specifications and sanction roadway (one side) parking. An extensive survey was launched and measurements of Nutting Street had been conducted in joint venture with the Department of Public Works Director along with myself. The results of this survey determined that the width of the roadway ranged from approximately 21 feet in width near the vicinity of the Prospect Street intersection, funneling to a span of approximately 29 feet in width near the vicinity of the Union Street intersection. In addition, the span identified as being approximately 29 feet in width only extended for approximately 50 feet from the intersection and this dimension combined with the fact that motor vehicles are not permitted to park within 20 feet of an intersection (Gardner City Code 600/21) significantly restricted the availability of sanctioned roadside parking down to approximately 30 feet. In summary, our analysis showed that the bulk of Nutting Street predominantly did not appear to have the approved conditions permissible for roadside parking and was considered under width according to Gardner City Code.

On February 14th, 2020 at the quarterly Traffic Commission Meeting these survey items and talking points were brought forward for any additional discussion. After an examination regarding the factors as documented in City Code, in combination with the data gathered from the dimensions obtained on Nutting Street, a unanimous decision from the commission members was affirmed to recommend the following ordinance amendment in Gardner City Code:

600-24/Parking prohibited on certain streets – Nutting Street/Both Sides/Entire Length

In summary and on behalf of the Traffic Commission, we believe that this change meets the guidelines as documented in roadway guidance by Gardner City Code, acts in the best interest of public safety and would formally address any parking concerns generated from citizens in the area.

Your favorable consideration in our recommendation would be greatly appreciated.

James F. Trifiro Jr.

James F. Trifiro Jr.
Deputy Chief of Police
City of Gardner Police Department

10252

CITY OF GARDNER
MASSACHUSETTS
CITY CLERK

95 PLEASANT STREET, ROOM 121
GARDNER, MA 01440-2630
TEL 978-630-4058

ALAN L. AGNELLI
City Clerk
Registrar of Voters

JOHN A. OLIVARI
Assistant City Clerk
FAITH A. GLOVER
Assistant City Clerk

March 3, 2020

Mark M. Schafron, Chairman
Gardner Planning Board
City Hall Annex, Room 201
115 Pleasant Street
Gardner, MA 01440

FILE COPY

Re: Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1

Dear Mr. Schafron:

Pursuant to G.L. Chapter 40A, § 5, the City Council voted to transmit to the Planning Board for review and report the enclosed Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1.

Should you have any questions, please feel free to contact me.

Very truly yours,

Alan L. Agnelli

ALAN L. AGNELLI
City Clerk

Enclosures (2)

10252

McCarty Engineering, Inc.
Civil Engineers

RECEIVED
2020 FEB 19 AM 8:56
CITY CLERK'S OFFICE
GARDNER, MA

February 19, 2020

James M. Walsh, Esq., Council President
City Council
95 Pleasant Street
Room 121
Gardner, MA 01440

Via: Hand Delivery

Ref.: Parker Place
525 Parker Place
Development Overlay District 1
Gardner, Massachusetts

Dear Council President and Members:

On behalf of Traven Development LLC., McCarty Engineering, Inc. (MEI) is hereby requesting that under section 675-530 of the City of Gardner Zoning Ordinance that the designation of the Development Overlay District 1, that was voted into action on April 18, 2006 and approved by Mayor Gerald E. St. Hilaire on April 19, 2006 continue to apply to the property situated at 525 Parker Street. Associated with this designation we are also hereby requesting that the approved use be amended from three- and four-unit condominiums to multi-unit residential buildings.

525 Parker Street consists of two parcels totaling approximately 7.5 acres±. The properties are depicted on the City of Gardner Assessors Maps as parcels M22-1-6 and M22-6-27 both of which are zoned Industrial 1 and are configured such that they have frontage along Parker Street, Water Street and Parker Pond.

This parcel is the former location of one of Gardner's premier furniture manufactures Gem Industries who specialized in the creation of dormitory furniture. The factory and parking areas were situated to the interior portions of the site while the perimeter was marked with undulating topography and wetland systems. In the early 2000s the factory was demolished and the site has remained vacant.

In harmony with the previously approved project and the City-wide growth and development policies, the applicant proposes to redevelop this parcel and construct three multi-family residential buildings, totaling 123 units.

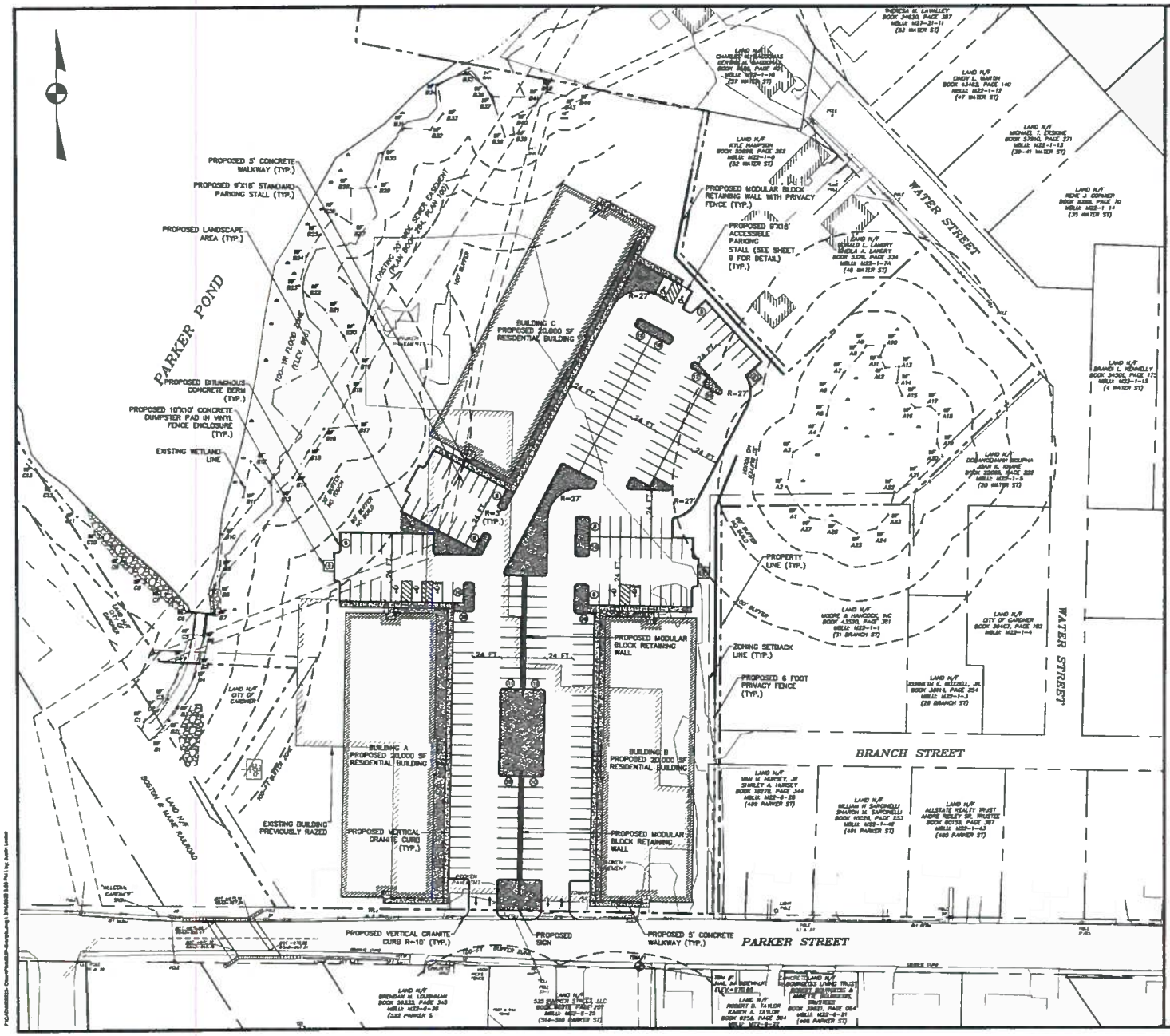
The site has been configured such that the access into the site will be off of Parker Street. The parking lots have been located within the interior of the site with the buildings positioned alongside the edge of the parking. This configuration allows for the buildings to buffer the parking areas to the abutting residences. Linked to this properties' revitalization, an extensive landscape plan is proposed which will aid in accenting the building architecture, complimenting the natural elements while also providing buffering and screening.

This request to amend the Overlay district is the first step in the permitting process. This project will require the filing for a Special Permit and Site Plan Review from the Planning Board and a Notice of Intent with the local Conservation Commission and DEP.

We feel this proposed development is consistent with the intent of the Development Overlay District 1 and we look forward to working with City Council on this matter. If you have any questions of comments, please feel free to contact our office.

Sincerely,

Lar Greene, RLA
P:\MEI\223-Olson\City Council\Docs\Development 1 Overlay Requestletter.docx



LOCUS PLAN

1"=1,000 FT.±

NOTES:

1. EXISTING CONDITIONS INFORMATION SHOWN WAS RECEIVED ELECTRONICALLY FROM HANNIGAN ENGINEERING, INC. DATED NOVEMBER 14, 2019.
2. THE WETLANDS WERE DELINEATED BY ECOTEC, INC. ON OCTOBER 30, 2019. FLAGS WERE FIELD LOCATED BY HANNIGAN ENGINEERING, INC. IN NOVEMBER 2019.
3. A PORTION OF THIS PARCEL IS LOCATED WITHIN THE LIMITS OF THE 100-YEAR FLOODPLAIN BASED ON A REVIEW OF THE MASS GIS ONLINE DATA VIEWER.

ZONING SUMMARY-EAST PARCEL

DISTRICT: INDUSTRIAL 1/DEVELOPMENT OVERLAY DISTRICT 1*

DIMENSIONAL REQUIREMENTS:

	REQUIRED:	PROVIDED:	CONFORMANCE:
MIN. LOT AREA:	5,000 S.F	708,849 S.F	Y
MAX. LOT COVERAGE:	80%	20.7%	Y**
FRONTAGE:	NONE	390.5 FT.	Y
MIN. SIDE YARD:	10 FT.	21 FT	Y
MIN. FRONT YARD:	NONE	10 FT.	Y
MIN. REAR YARD:	20 FT	591 FT.	Y
MAX. HEIGHT:	80 FT	52 FT.	Y
MAX. STORIES:	5	3	Y

*PER SECTION 5.3.3(2) OF THE ZONING BYLAW THIS PROJECT WILL REQUIRE A SPECIAL PERMIT BY THE CITY OF GARDNER PLANNING BOARD. THIS SITE HAS BEEN PREVIOUSLY APPROVED FOR A DEVELOPMENT OVERLAY DISTRICT 1 BY THE CITY COUNCIL ON APRIL 18, 2006 AND APPROVED BY MAYOR GERALD E. ST. HILAIRE ON APRIL 19, 2006.

**MAX LOT COVERAGE WITHIN THE USABLE AREA IS 44.8%.

PARKING SUMMARY:

REQUIREMENTS:

RESIDENTIAL 2 BEDROOM: 2 SPACE/UNIT

RESIDENTIAL 1 BEDROOM: 1 SPACE/UNIT

PROPOSED:

RESIDENTIAL. 90 2 BEDROOM UNITS

RESIDENTIAL. 33 1 BEDROOM UNITS

PARKING REQUIRED:

RESIDENTIAL. 90 UNITS X 2 SP/UNIT= 180 SPACES

RESIDENTIAL. 33 UNITS X 1 SP/UNIT= 33 SPACES

TOTAL SPACES REQUIRED: 213 SPACES

PARKING PROVIDED: 218 SPACES

TOTAL ACCESSIBLE REQUIRED: 7 SPACES

ACCESSIBLE PARKING REQUIRED: 7 SPACES

GRAPHIC SCALE

(IN FEET)

1 inch = 40 ft.

NOT FOR CONSTRUCTION

THESE PLANS WERE PREPARED FOR THE PURPOSE OF OBTAINING STATE AND LOCAL PERMITS AND ARE NOT INTENDED TO BE USED AS CONSTRUCTION DOCUMENTS.

No.	Date	Revision

Drawn By: JJ | Designed By: JJ | Checked By:

McCarty Engineering, Inc.
Civil Engineers
42 Jungle Road, Leominster, MA 01453
phone:(978) 534-1318 fax: (978) 840-6907
www.mccartyeng.com

Project Name

Parker Estates
Parker Street
Gardner, MA

Sheet Title

City Council Graphic

Job No: 223

File Name: 223F-Graphic

Date: February 19, 2020

Scale: 1"=40'

Sheet No. 1

10252

/0250

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES FY2019 ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Fifty-two Thousand Seven Hundred Eighty-eight and 33/100 ($52,788.33) from Free Cash to the Fiscal 2019 Firefighters Salary and Wages Account.

10251

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES FY2020 ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of One Hundred Thirteen Thousand One Hundred Fifty-Nine and 74/100 ($113,159.74) from Free Cash to the Fiscal 2020 Firefighters Salary and Wages Account.

10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

RECEIVED
2020 MAR 24 AM 11:14
CITY CLERK'S OFFICE
GARDNER MA

March 24, 2020

Gardner City Council
Finance Committee
City Hall
95 Pleasant Street
Gardner, MA 01440

RE: Agenda Item 10251

Dear Committee Members,

I have received correspondence from our City Auditor indicating that his calculation for the amount necessary to fund the FY20 retroactive payment in accordance with the proposed new firefighter contract was mistaken.

Attached, please find a copy of his correspondence to me dated March 19, 2020, explaining the miscalculation.

As a result, I am submitting a revised money order in the amount of $113,159.74 which should be substituted for the previously submitted order. The grand total to fund FY19 and FY20 now totals $165,948.07.

I am also submitting the backup calculation data for your review. I expect that the Auditor will be available to attend our next Finance Committee Meeting to answer any questions.

In the meantime please contact me if you would like to discuss the matter further.

Very truly yours,

James M Walsh

James M. Walsh
Acting Mayor

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov

10251

CITY of GARDNER
Office of the City Auditor
John Richard, City Auditor
95 Pleasant Street, Room 114
Gardner, MA 01440
Phone: 978-632-1900 ext. 8020 • Fax: 978-630-3778
Email: jrichard@gardner-ma.gov

Date: 03/19/2020

To: Acting Mayor James M. Walsh

Re: Revise Free Cash requested amount for Fire Fighters FY20 Retro Payment.

My initial estimated FY20 retro payment calculation only accounted for a 2% rate increase for FY20 and should have been 4%. The new estimated amount needed is **$113,159.74** which I have attached a detailed calculation. In the new estimate I used FY19 hours worked for each employee with current rates paid vs FY20 new contract rates. I apologize for the oversite.

Sincerely

John Richard
City Auditor

10251

FIREFIGHTERS FY20 RETRO PAY FROM 7-1-19 THRU 6-30-20 ESTIMATE

Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
137	100	REG	4	3	$ 22.7824	$ 23.7029	$ 0.92	2,184.0	$ 2,010.28
137	200	REG OT 1.5	4	3	$ 34.4483	$ 35.8290	$ 1.38	327.5	$ 452.18
137	205	REG OT AMB	4	3	$ 34.4483	$ 35.8290	$ 1.38	134.0	$ 185.02
137	500	HOLIDAY	4	3	$ 4,809.14	$ 5,001.50	$ 192.37	1.0	$ 192.37
138	100	REG	4	3	$ 22.7824	$ 23.7029	$ 0.92	2,184.0	$ 2,010.32
138	200	REG OT 1.5	4	3	$ 35.6846	$ 37.0653	$ 1.38	178.5	$ 246.46
138	500	HOLIDAY	4	3	$ 4,809.14	$ 5,001.50	$ 192.37	1.0	$ 192.37
138	725	COLLATERAL	4	3	$ 0.6256	$ 0.6506	$ 0.03	28.5	$ 0.71
491	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	84.0	$ 74.34
491	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	462.0	$ 408.87
491	105	REG AMB	4	3	$ 21.9071	$ 22.7921	$ 0.88	1,638.0	$ 1,449.63
491	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	436.5	$ 579.45
491	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	200.5	$ 266.16
491	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	72.0	$ 95.58
491	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	34.0	$ 45.13
491	500	HOLIDAY	4	3	$ 4,506.18	$ 4,686.42	$ 180.25	1.0	$ 180.25
491	540	EDUC INCENTIVE	4	3	$ 21.9071	$ 22.7921	$ 0.88	63.0	$ 55.75
491	725	COLLATERAL	4	3	$ 33.1354	$ 34.4629	$ 1.33	81.0	$ 107.53
491	725	COLLATERAL	4	3	$ 33.1354	$ 34.4629	$ 1.33	57.0	$ 75.67
494	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	273.0	$ 241.60
494	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	147.0	$ 130.10
494	105	REG AMB	4	3	$ 21.9071	$ 22.7921	$ 0.88	1,764.0	$ 1,561.14
494	200	REG OT 1.5	4	3	$ 32.9981	$ 34.3256	$ 1.33	316.0	$ 419.49
494	200	REG OT 1.5	4	3	$ 32.9981	$ 34.3256	$ 1.33	64.0	$ 84.96
494	205	REG OT AMB	4	3	$ 32.9981	$ 34.3256	$ 1.33	51.0	$ 67.70
494	500	HOLIDAY	4	3	$ 4,438.86	$ 4,616.41	$ 177.55	1.0	$ 177.55
611	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	1,281.0	$ 1,133.69
611	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	903.0	$ 799.15
611	200	REG OT 1.5	4	2	$ 33.1354	$ 34.4629	$ 1.33	61.0	$ 80.98
611	200	REG OT 1.5	4	2	$ 33.1354	$ 34.4629	$ 1.33	100.0	$ 132.75
611	205	REG OT AMB	4	2	$ 33.1354	$ 34.4629	$ 1.33	33.5	$ 44.47
611	205	REG OT AMB	4	2	$ 33.1354	$ 34.4629	$ 1.33	20.0	$ 26.55
611	500	HOLIDAY	4	2	$ 4,199.74	$ 4,367.73	$ 167.99	1.0	$ 167.99
612	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	1,281.0	$ 1,133.69
612	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	903.0	$ 799.15
612	200	REG OT 1.5	4	2	$ 33.1354	$ 34.4629	$ 1.33	120.5	$ 159.96
612	200	REG OT 1.5	4	2	$ 33.1354	$ 34.4629	$ 1.33	213.0	$ 282.76
612	205	REG OT AMB	4	2	$ 33.1354	$ 34.4629	$ 1.33	88.0	$ 116.82
612	205	REG OT AMB	4	2	$ 33.1354	$ 34.4629	$ 1.33	188.0	$ 249.57
612	500	HOLIDAY	4	2	$ 4,199.74	$ 4,367.73	$ 167.99	1.0	$ 167.99
613	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	1,281.0	$ 1,133.69
613	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	903.0	$ 799.15
613	200	REG OT 1.5	4	2	$ 33.1354	$ 34.4629	$ 1.33	235.0	$ 311.96
613	200	REG OT 1.5	4	2	$ 33.1354	$ 34.4629	$ 1.33	193.0	$ 256.21
613	205	REG OT AMB	4	2	$ 33.1354	$ 34.4629	$ 1.33	130.5	$ 173.24
613	205	REG OT AMB	4	2	$ 33.1354	$ 34.4629	$ 1.33	69.3	$ 91.93
613	500	HOLIDAY	4	2	$ 4,199.74	$ 4,367.73	$ 167.99	1.0	$ 167.99
621	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	1,359.0	$ 1,202.72
621	105	REG AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	819.0	$ 724.81
621	150	INJ PAY AMB	4	2	$ 21.9071	$ 22.7921	$ 0.88	6.0	$ 5.31

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Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
621	200	REG OT 1.5	4	2	$ 32.9981	$ 34.3256	$ 1.33	54.0	$ 71.69
621	200	REG OT 1.5	4	2	$ 32.9981	$ 34.3256	$ 1.33	98.0	$ 130.10
621	205	REG OT AMB	4	2	$ 32.9981	$ 34.3256	$ 1.33	54.0	$ 71.69
621	205	REG OT AMB	4	2	$ 32.9981	$ 34.3256	$ 1.33	48.0	$ 63.72
621	500	HOLIDAY	4	2	$ 4,199.74	$ 4,367.73	$ 167.99	1.0	$ 167.99
790	105	REG AMB	4	1	$ 18.7226	$ 19.4790	$ 0.76	2,184.0	$ 1,652.04
790	200	REG OT 1.5	4	1	$ 28.0839	$ 29.2186	$ 1.13	200.0	$ 226.93
790	205	REG OT AMB	4	1	$ 28.0839	$ 29.2186	$ 1.13	200.0	$ 226.93
790	500	HOLIDAY	4	1	$ 4,080.00	$ 4,243.20	$ 163.20	1.0	$ 163.20
885	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	399.0	$ 353.11
885	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	2,184.0	$ 1,932.84
885	150	INJ PAY AMB	4	3	$ 21.9071	$ 22.7921	$ 0.88	-	$ -
885	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	82.0	$ 108.85
885	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	14.0	$ 18.58
885	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	10.0	$ 13.27
885	500	HOLIDAY	4	3	$ 4,775.48	$ 4,966.50	$ 191.02	1.0	$ 191.02
885	540	EDU INC	4	3	$ 21.9071	$ 22.7921	$ 0.88	46.0	$ 40.71
885	725	COLLATERAL	4	3	$ 33.1354	$ 34.4629	$ 1.33	9.0	$ 11.95
885	725	COLLATERAL	4	3	$ 33.1354	$ 34.4629	$ 1.33	2.0	$ 2.65
969	105	REG AMB	4	1	$ 20.2202	$ 21.0371	$ 0.82	2,184.0	$ 1,784.12
969	200	REG OT 1.5	4	1	$ 30.3304	$ 31.5557	$ 1.23	380.0	$ 465.64
969	500	HOLIDAY	4	1	$ 4,080.00	$ 4,243.20	$ 163.20	1.0	$ 163.20
1180	100	REG	5	5	$ 33.2036	$ 34.5448	$ 1.34	1,953.0	$ 2,619.35
1180	100	REG	5	5	$ 33.2036	$ 34.5448	$ 1.34	231.0	$ 309.82
1180	200	REG OT 1.5	5	5	$ 51.4537	$ 53.4655	$ 2.01	246.0	$ 494.90
1180	200	REG OT 1.5	5	5	$ 51.4537	$ 53.4655	$ 2.01	41.0	$ 82.48
1180	205	REG OT AMB	5	5	$ 51.4537	$ 53.4655	$ 2.01	4.0	$ 8.05
1180	500	HOLIDAY	5	5	$ 7,034.08	$ 7,315.45	$ 281.36	1.0	$ 281.36
1668	100	REG	5	3	$ 30.7171	$ 31.9581	$ 1.24	2,184.0	$ 2,710.24
1668	200	REG OT 1.5	5	3	$ 47.4493	$ 49.3108	$ 1.86	229.8	$ 427.66
1668	500	HOLIDAY	5	3	$ 6,743.13	$ 7,012.85	$ 269.73	1.0	$ 269.73
1668	540	EDUC INCENTIVE	5	3	$ 30.7171	$ 31.9581	$ 1.24	21.0	$ 26.06
1790	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	399.0	$ 353.11
1790	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	1,785.0	$ 1,579.73
1790	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	38.0	$ 50.44
1790	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	183.5	$ 243.60
1790	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	32.0	$ 42.48
1790	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	126.0	$ 167.26
1790	500	HOLIDAY	4	3	$ 4,775.48	$ 4,966.50	$ 191.02	1.0	$ 191.02
2147	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	693.0	$ 613.30
2147	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	1,491.0	$ 1,319.54
2147	200	REG OT 1.5	4	3	$ 34.5091	$ 35.8366	$ 1.33	182.0	$ 241.60
2147	200	REG OT 1.5	4	3	$ 34.5091	$ 35.8366	$ 1.33	274.0	$ 363.73
2147	205	REG OT AMB	4	3	$ 34.5091	$ 35.8366	$ 1.33	82.5	$ 109.52
2147	205	REG OT AMB	4	3	$ 34.5091	$ 35.8366	$ 1.33	172.5	$ 228.99
2147	500	HOLIDAY	4	3	$ 4,741.82	$ 4,931.49	$ 189.67	1.0	$ 189.67
2735	100	REG	4	5	$ 23.6740	$ 24.6307	$ 0.96	2,184.0	$ 2,089.36
2735	200	REG OT 1.5	4	5	$ 35.6484	$ 37.0834	$ 1.44	158.0	$ 226.73
2735	500	HOLIDAY	4	5	$ 5,197.01	$ 5,404.89	$ 207.88	1.0	$ 207.88
2735	530	OUT OF GRADE	4	5	$ 12.0800	$ 12.56	$ 0.48	1.0	$ 0.48
2805	100	REG	4	5	$ 23.6740	$ 24.6307	$ 0.96	2,184.0	$ 2,089.36
2805	200	REG OT 1.5	4	5	$ 35.7858	$ 37.2208	$ 1.44	1,454.3	$ 2,086.85
2805	205	REG OT AMB	4	5	$ 35.7858	$ 37.2208	$ 1.44	55.0	$ 78.93

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Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
2805	500	HOLIDAY	4	5	$ 5,197.01	$ 5,404.89	$ 207.88	1.0	$ 207.88
2805	522	TRAINOR STIPH	4	5	$ 35.7858	$ 37.2208	$ 1.44	3.0	$ 4.31
2805	530	OUT OF GRADE	4	5	$ 95.73	$ 99.56	$ 3.83	1.0	$ 3.83
2805	540	EDUC INCENTIVE	4	5	$ 35.7858	$ 37.2208	$ 1.44	4.0	$ 5.74
2805	725	COLLATERAL	4	5	$ 35.7858	$ 37.2208	$ 1.44	497.8	$ 714.27
2807	100	REG	4	4	$ 22.7824	$ 23.7029	$ 0.92	2,184.0	$ 2,010.32
2807	200	REG OT 1.5	4	4	$ 35.8219	$ 37.2026	$ 1.38	364.0	$ 502.58
2807	205	REG OT AMB	4	4	$ 35.8219	$ 37.2026	$ 1.38	106.0	$ 146.36
2807	500	HOLIDAY	4	4	$ 5,001.27	$ 5,201.33	$ 200.05	1.0	$ 200.05
2807	530	OUT OF GRADE	4	4	$ 446.89	$ 464.77	$ 17.88	1.0	$ 17.88
2807	725	COLLATERAL	4	4	$ 35.8219	$ 37.2026	$ 1.38	44.0	$ 60.75
2815	100	REG	4	5	$ 23.6740	$ 24.6307	$ 0.96	2,184.0	$ 2,089.36
2815	200	REG OT 1.5	4	5	$ 35.7858	$ 37.2208	$ 1.44	447.0	$ 641.45
2815	205	REG OT AMB	4	5	$ 35.7858	$ 37.2208	$ 1.44	3.0	$ 4.31
2815	500	HOLIDAY	4	5	$ 5,197.01	$ 5,404.89	$ 207.88	1.0	$ 207.88
2815	530	OUT OF GRADE	4	5	$ 1,193.58	$ 1,253.26	$ 59.68	1.0	$ 59.68
2815	725	COLLATERAL	4	5	$ 35.7858	$ 37.2208	$ 1.44	34.0	$ 48.79
2834	100	REG	4	4	$ 23.6740	$ 24.6307	$ 0.96	2,184.0	$ 2,089.36
2834	200	REG OT 1.5	4	4	$ 35.7858	$ 37.2208	$ 1.44	240.0	$ 344.40
2834	205	REG OT AMB	4	4	$ 35.7858	$ 37.2208	$ 1.44	27.0	$ 38.75
2834	500	HOLIDAY	4	4	$ 5,001.27	$ 5,201.33	$ 200.05	1.0	$ 200.05
2834	530	OUT OF GRADE	4	4	$ 65.75	$ 68.38	$ 2.63	1.0	$ 2.63
2875	100	REG	4	5	$ 23.6740	$ 24.6307	$ 0.96	2,184.0	$ 2,089.36
2875	200	REG OT 1.5	4	5	$ 35.7858	$ 37.2208	$ 1.44	223.8	$ 321.08
2875	500	HOLIDAY	4	5	$ 5,197.01	$ 5,404.89	$ 207.88	1.0	$ 207.88
2875	530	OUT OF GRADE	4	5	$ 95.73	$ 99.56	$ 3.83	1.0	$ 3.83
2911	100	REG	4	4	$ 22.7824	$ 23.7029	$ 0.92	2,184.0	$ 2,010.32
2911	200	REG OT 1.5	4	4	$ 35.8219	$ 37.2026	$ 1.38	52.0	$ 71.80
2911	500	HOLIDAY	4	4	$ 5,001.27	$ 5,201.33	$ 200.05	1.0	$ 200.05
2911	530	OUT OF GRADE	4	4	$ 65.75	$ 68.38	$ 2.63	1.0	$ 2.63
2911	540	EDUC INCENTIVE	4	4	$ 22.7824	$ 23.7029	$ 0.92	161.5	$ 148.66
2911	725	COLLATERAL	4	4	$ 35.8219	$ 37.2026	$ 1.38	153.0	$ 211.25
2922	100	REG	5	2	$ 29.5545	$ 30.7486	$ 1.19	2,184.0	$ 2,607.80
2922	200	REG OT 1.5	5	2	$ 45.9801	$ 47.7712	$ 1.79	174.5	$ 312.54
2922	205	REG OT AMB	5	2	$ 45.9801	$ 47.7712	$ 1.79	28.0	$ 50.15
2922	500	HOLIDAY	5	2	$ 6,487.89	$ 6,747.41	$ 259.52	1.0	$ 259.52
2922	540	EDUC INCENTIVE	5	2	$ 29.5545	$ 30.7486	$ 1.19	12.5	$ 14.93
2922	725	COLLATERAL	5	2	$ 45.9801	$ 47.7712	$ 1.79	393.0	$ 703.89
2923	100	REG	4	4	$ 22.7824	$ 23.7029	$ 0.92	1,008.0	$ 927.84
2923	100	REG	4	4	$ 22.7824	$ 23.7029	$ 0.92	1,176.0	$ 1,082.48
2923	200	REG OT 1.5	4	4	$ 37.1955	$ 38.5763	$ 1.38	150.0	$ 207.11
2923	200	REG OT 1.5	4	4	$ 37.1955	$ 38.5763	$ 1.38	226.5	$ 312.73
2923	205	REG OT AMB	4	4	$ 37.1955	$ 38.5763	$ 1.38	41.0	$ 56.61
2923	205	REG OT AMB	4	4	$ 37.1955	$ 38.5763	$ 1.38	42.0	$ 57.99
2923	500	HOLIDAY	4	4	$ 4,896.47	$ 5,092.33	$ 195.86	1.0	$ 195.86
2924	100	REG	4	4	$ 22.7824	$ 23.7029	$ 0.92	1,008.0	$ 927.84
2924	100	REG	4	4	$ 22.7824	$ 23.7029	$ 0.92	1,166.0	$ 1,073.28
2924	200	REG OT 1.5	4	4	$ 34.4483	$ 35.8290	$ 1.38	208.5	$ 287.88
2924	200	REG OT 1.5	4	4	$ 34.4483	$ 35.8290	$ 1.38	59.0	$ 81.46
2924	205	REG OT AMB	4	4	$ 34.4483	$ 35.8290	$ 1.38	39.0	$ 53.85
2924	205	REG OT AMB	4	4	$ 34.4483	$ 35.8290	$ 1.38	58.0	$ 80.08
2924	500	HOLIDAY	4	4	$ 4,896.47	$ 5,092.33	$ 195.86	1.0	$ 195.86
3125	100	REG	4	5	$ 23.6740	$ 24.6307	$ 0.96	2,184.0	$ 2,089.36

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Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
3125	200	REG OT 1.5	4	5	$ 37.1594	38.5944	$ 1.44	184.0	$ 264.04
3125	205	REG OT AMB	4	5	$ 37.1594	38.5944	$ 1.44	106.0	$ 152.11
3125	500	HOLIDAY	4	5	$ 5,197.01	$ 5,404.89	$ 207.88	1.0	$ 207.88
3125	509	OUT OF GRADE	4	5	$ 211.98	$ 220.46	$ 8.48	1.0	$ 8.48
3170	100	REG	6	5	$ 35.9293	$ 37.3807	$ 1.45	2,184.0	$ 3,169.92
3170	200	REG OT 1.5	6	5	$ 56.6412	$ 58.8183	$ 2.18	79.5	$ 173.08
3170	500	HOLIDAY	6	5	$ 7,886.82	$ 8,202.30	$ 315.47	1.0	$ 315.47
3170	530	OUT OF GRADE	6	5	$ 1,121.24	$ 1,166.09	$ 44.85	1.0	$ 44.85
3170	600	SICK INCENTIVE	6	5	$ 1,342.99	$ 1,396.71	$ 53.72	1.0	$ 53.72
3360	100	REG	5	4	$ 33.2036	$ 34.5448	$ 1.34	2,184.0	$ 2,929.16
3360	200	REG OT 1.5	5	4	$ 49.8054	$ 51.8171	$ 2.01	390.5	$ 785.60
3360	205	REG OT AMB	5	4	$ 49.8054	$ 51.8171	$ 2.01	5.5	$ 11.06
3360	500	HOLIDAY	5	4	$ 7,008.59	$ 7,288.94	$ 280.34	1.0	$ 280.34
3360	540	EDUC INCENTIVE	5	4	$ 33.2036	$ 34.5448	$ 1.34	60.5	$ 81.14
3360	725	COLLATERAL	5	4	$ 49.8054	$ 51.8171	$ 2.01	75.0	$ 150.88
3444	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	2,184.0	$ 1,932.84
3444	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	213.8	$ 283.75
3444	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	19.0	$ 25.22
3444	500	HOLIDAY	4	3	$ 4,809.14	$ 5,001.50	$ 192.37	1.0	$ 192.37
3444	725	COLLATERAL	4	3	$ 33.1354	$ 34.4629	$ 1.33	266.5	$ 353.78
3446	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	2,101.0	$ 1,859.39
3446	150	INJ PAY	4	3	$ 21.9071	$ 22.7921	$ 0.88	20.0	$ 17.70
3446	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	160.0	$ 212.40
3446	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	18.0	$ 23.89
3446	500	HOLIDAY	4	3	$ 4,809.14	$ 5,001.50	$ 192.37	1.0	$ 192.37
3449	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	2,184.0	$ 1,932.84
3449	200	REG OT 1.5	4	3	$ 32.9981	$ 34.3256	$ 1.33	387.0	$ 513.74
3449	205	REG OT AMB	4	3	$ 32.9981	$ 34.3256	$ 1.33	84.0	$ 111.51
3449	500	HOLIDAY	4	3	$ 4,809.14	$ 5,001.50	$ 192.37	1.0	$ 192.37
3449	522	TRAINOR STIPH	4	3	$ 32.9981	$ 34.3256	$ 1.33	10.0	$ 13.28
3640	100	REG	5	4	$ 31.9264	$ 33.2162	$ 1.29	2,184.0	$ 2,816.84
3640	200	REG OT 1.5	5	4	$ 49.5380	$ 51.4726	$ 1.93	66.0	$ 127.69
3640	500	HOLIDAY	5	4	$ 6,743.13	$ 7,012.85	$ 269.73	1.0	$ 269.73
3640	725	COLLATERAL	5	4	$ 49.5380	$ 51.4726	$ 1.93	669.0	$ 1,294.28
3645	100	REG	5	4	$ 31.9264	$ 33.2162	$ 1.29	2,184.0	$ 2,816.84
3645	200	REG OT 1.5	5	4	$ 49.5380	$ 51.4726	$ 1.93	365.0	$ 706.14
3645	205	REG OT AMB	5	4	$ 49.5380	$ 51.4726	$ 1.93	31.0	$ 59.97
3645	500	HOLIDAY	5	4	$ 6,743.13	$ 7,012.85	$ 269.73	1.0	$ 269.73
4786	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	399.0	$ 353.11
4786	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	1,785.0	$ 1,579.73
4786	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	10.0	$ 13.27
4786	200	REG OT 1.5	4	3	$ 33.1354	$ 34.4629	$ 1.33	44.0	$ 58.41
4786	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	14.0	$ 18.58
4786	205	REG OT AMB	4	3	$ 33.1354	$ 34.4629	$ 1.33	14.0	$ 18.58
4786	500	HOLIDAY	4	3	$ 4,775.48	$ 4,966.50	$ 191.02	1.0	$ 191.02
5992	105	REG AMB	4	1	$ 18.72	$ 19.48	$ 0.76	1,680.0	$ 1,270.80
5992	205	REG OT AMB	4	1	$ 28.08	$ 29.22	$ 1.13	180.0	$ 204.24
5992	500	HOLIDAY	4	1	$ 3,509.20	$ 3,649.57	$ 140.37	1.0	$ 140.37
6774	105	REG AMB	4	1	$ 18.72	$ 19.48	$ 0.76	1,680.0	$ 1,270.80
6774	205	REG OT AMB	4	1	$ 28.08	$ 29.22	$ 1.13	100.0	$ 113.46
6774	500	HOLIDAY	4	1	$ 3,509.20	$ 3,649.57	$ 140.37	1.0	$ 140.37
7600	100	REG	4	6	$ 24.6019	$ 25.5957	$ 0.99	2,184.0	$ 2,170.48
7600	200	REG OT 1.5	4	6	$ 37.1776	$ 38.6683	$ 1.49	400.5	$ 597.03

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Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
7600	205	REG OT AMB	4	6	$ 37.1776	$ 38.6683	$ 1.49	14.0	$ 20.87
7600	500	HOLIDAY	4	6	$ 5,400.68	$ 5,616.70	$ 216.03	1.0	$ 216.03
7600	530	OUT OF GRADE	4	6	$ 993.48	$ 1,033.22	$ 39.74	1.0	$ 39.74
8096	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	399.0	$ 353.11
8096	100	REG	4	3	$ 21.9071	$ 22.7921	$ 0.88	1,785.0	$ 1,579.73
8096	200	REG OT 1.5	4	3	$ 32.0407	$ 32.9981	$ 0.96	104.5	$ 100.04
8096	205	REG OT AMB	4	3	$ 32.0407	$ 32.9981	$ 0.96	25.5	$ 24.41
8096	500	HOLIDAY	4	3	$ 4,775.48	$ 4,966.50	$ 191.02	1.0	$ 191.02
8096	540	EDUC INCENTIVE	4	3	$ 21.9071	$ 22.7921	$ 0.88	5.0	$ 4.42
8096	540	EDUC INCENTIVE	4	3	$ 21.9071	$ 22.7921	$ 0.88	33.5	$ 29.65
8096	725	COLLATERAL	4	3	$ 32.0407	$ 32.9981	$ 0.96	74.0	$ 70.84
8306	105	REG AMB	4	2	$ 20.2202	$ 21.0371	$ 0.82	2,184.0	$ 1,784.12
8306	200	REG OT 1.5	4	2	$ 30.4677	$ 31.6931	$ 1.23	100.0	$ 122.54
8306	500	HOLIDAY	4	2	$ 3,509.20	$ 3,649.57	$ 140.37	1.0	$ 140.37
8306	540	EDUC INCENTIVE	4	2	$ 20.2202	$ 21.0371	$ 0.82	16.0	$ 13.07
							ESTIMATE FY20 FIREFIGHTS RETO PAY		
							TOTAL		**$ 113,159.74**

10250-10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

HAND DELIVERY ONLY

March 11, 2020

John M. Flick, City Solicitor
City of Gardner Law Dept.
144 Central Street
Gardner, MA 01440

RE: Firefighters Contract

Dear Attorney Flick,

This will acknowledge receipt of your correspondence on March 9, 2020. Thank you for responding to the request for information that was contained in my letter of February 24, 2020, to you and Human Resources Director, Debra Pond.

The history of negotiations is informative.

Although there is an argument to be made to the contrary, I am not fully persuaded that I have the authority, as Acting Mayor, to sign the contract. I believe the better approach is to seek a judicial determination of that authority given the facts and circumstances presented.

Please promptly initiate legal proceedings.

Very truly yours,

James M. Walsh
Acting Mayor

C: Debra Pond

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov

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CITY OF GARDNER
LAW DEPARTMENT

John M. Flick
City Solicitor

Priya Gandbhir
Assistant City Solicitor

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Gardner, MA 01440

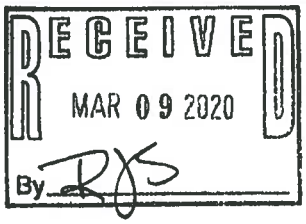
Telephone (978) 632-7948
Fax (978) 630-3703

Writer's Email:

March 2, 2020

VIA HAND DELIVERY

James M. Walsh, Esq.
Acting Mayor
City of Gardner
95 Pleasant Street
Gardner, MA 01440



Re: Fire Department Negotiations Timeline:

Dear Acting Mayor Walsh:

As requested, I am responding to your request for detailed information regarding the City's negotiations with the Gardner Fire Fighters, Local 2215 (the "Union"). In response to your request Debra Pond, the City's Human Resources Director prepared the following history of the negotiations for the June 2018 to June 2021 collective bargaining agreement (the "CBA").

In 2016 Mayor Mark Hawke negotiated an impact bargaining agreement with the Union without the assistance of Ms. Pond or legal counsel. This negotiation resulted in an agreement with the Union containing specific ambulance related language and the following wage terms.

- Ambulance Agreement (negotiations with Mayor, Steve Roy, Robert Jacques and Anthony Alario) – signed on 05/12/2016.
  - Included the following wage increases for EMT's:
    - ✓ 01/01/2017 – 1%
    - ✓ 07/01/2018 – 2%
    - ✓ 07/01/2019 – 3%
    - ✓ $1.00 ambulance stipend

Upon information and belief, the Mayor had initially proposed the above wage increases only for those employees of the Fire Department who physically worked on the ambulance. The Union countered arguing that the delivery of ambulance services increased the work of all Firefighters, therefore the wage increase should apply to all. Since all Firefighters are required to be EMT's these wage increases were applied to all Firefighters. It was the Mayor's position that these were pre-negotiated pay increases for the FY19 and FY20.

Thereafter, the Union presented proposals for 07/01/2017 – 06/30/2020 Contract negotiations. The Mayor reviewed and assigned Debra Pond as the City's representative to negotiate the terms of this CBA. In its proposal, the Union requested a 7% increase for each year of the contract, FY18, FY19 and FY20. Several meetings were held and included Steve Roy, Matt Bettez, Greg Doyle and Debra Pond. Since the end of FY18 was fast approaching The City and Union agreed to a one-year contract with a 2% increase for FY18, a CBA duration of 07/01/2017 to 06/30/2018, and certain benefit pro-rations. A Memorandum of Agreement was signed on 06/26/2018.

The next round of negotiations commenced in September 2018 to negotiate the July 1, 2018 through June 30, 2021 CBA. The series of meetings proceeded as follows:

- 09/16/2018 – Negotiation meeting with Steve Roy, Mark Bettez, Greg Doyle and Debra Pond. Discussions involved previous original proposals that were not resolved or included in the one year CBA.
- 11/28/2018 - Provided Union with formal proposal and counter-proposal document. City held to pre-negotiated raises for FY19 and FY20.
- Union had a transition in members on negotiation/executive board.
- 01/08/2019 – The City re-sent proposal document to Union and requested meeting dates.
- 02/04/2019 – Union met (with the body) to discuss City proposals.
- 02/08/2019 – City requested negotiation dates.
- 02/13/2019 – Union confirmed meeting and informed City that they were collecting dates to meet for further negotiations.
- 02/19/2019 – Union sent counter-proposals and meeting dates. In addition to language changes and requests for more time off, Union requested in addition to the increased negotiated in the ambulance agreement FY19 – 2% + 15 year step added at 5%; FY20 - 1%; FY21 – 2%; and an increase in ambulance stipend from $1.00 to $3.00.
- 03/13/2019 – City sent response/counter-proposals to Union prior to negotiation meeting.
- 03/15/2019 – Negotiation meeting – Jeremy Salo, Greg Doyle, Mark Bettez, Mayor Hawke & Debra Pond
- 03/28/2019 – Negotiation meeting – Jeremy Salo, Greg Doyle, Mark Bettez, Mayor Hawke & Debra Pond. Agreed upon all items with the exception of wages and ambulance stipend. City offered two different wage proposals. One included no other increase for FY19 or FY20 (other than pre-negotiated increases), with an increase in the ambulance stipend and for FY21 the addition of a 15 year step at 4% and a 2% increase; the second included no increase in ambulance stipend and an additional .5% the first two years of the contract. FY21 the addition of a 15 year step at 4% and a 2% increase.
- 04/16/2019 – Union notified City that proposals were presented to Union body and requested another negotiation meeting.
- 04/26/2019 – Negotiation meeting – Jeremy Salo, Mark Bettez, Mayor Hawke & Debra Pond. Union informed City that City's wage proposals for FY19 and FY20 were both rejected. Last negotiation meeting attended by Mayor.
- 04/26/2019 – Received additional wage proposal from Jeremy Salo via email with the following for FY19 – an additional 1%; FY20 – an additional 1%, plus additional $1.00 for ambulance stipend; FY21 the addition of a 15 year step at 4% and a 2% increase.

- 05/03/2019 – Debra Pond informed Jeremy Salo via email that new wage proposal was rejected and that the proposals made by the Mayor in the 04/26/2019 negotiation meeting were the City's best and final.
- 06/03/2019 – Debra Pond sent reminder to the Union that the fiscal year end was fast approaching (for contract completion purposes).
- 06/04/2019 – Union requested another meeting via email.
- 06/10/2019 – Debra Pond emailed Union (included Mayor on email) and sent another counter-proposal for wages adding an additional .5% but also requesting some "give backs."
- 06/20/2019 – Union declined City proposals and provided a counter-proposal.
- 06/20/2019 – Debra Pond responded informing Union that counter-proposals put City and Union even further apart.
- 07/18/2019 – Union filed petition with the JLMC.
- 08/02/2019 – Union sent City request for documents.
- 08/12/2019 – Investigative Committee Level Mediation at City Hall with Robert Dickson, Daniel Morgado, Priya Gandbhir, Mayor Hawke and Debra Pond. No progress.
- 09/17/2109 – Second meeting Investigative Committee Level Mediation with Robert Dickson, Daniel Morgado, John Flick, Priya Gandbhir, Mayor Hawke and Debra Pond. No progress.
- 11/07/2019 – Third and final meeting Investigative Committee Level Mediation with Robert Dickson, Daniel Morgado, John Flick, and Debra Pond. City made two offers (an additional .5% in the first two years of the contract; second proposal was an additional 1% for the first two years of the contract and Union declined. Move to formal mediation.
- 11/26/2019 – Mayor Hawke's last actual physical day in City Hall. Also HR Administrative Coordinator's last day with the City HR Department (position vacant for 2 months).
- 12/16/2019 – Mediation – 3(a) Hearing in Boston. Debra Pond and John Flick. Memorandum of Agreement ("MOA") reached and executed.

The final City Council meeting of 2019 was held on December 16, 2019. Whereas 2019 was an election year for the City's government, this final Council meeting of 2019 was the final meeting of this Council as there were three new councilors elected to the City Council. It was also expected that Mayor Hawke would be resigning from office although his planned date of resignation was not known. Nevertheless, the City continued to work with the Union to complete the process of establishing the CBA as negotiated. The progress was as follows:

- 12/19/2019 (@9:14 PM) – Union (Jeremy Salo) sent email to Debra Pond informing City that Union voted to ratify the MOA. *(12/19/2019 email was received long after closing hours for City Hall. Email was viewed on Friday.)*
- 12/20/2019 (@1:49 PM) – Union (Jeremy Salo) sent email to Debra Pond informing City that Union voted to ratify the MOA. *(Time frame after receipt of email included half day and full days of closing due to holidays.)*

Following the ratification the MOA by the Union, the progression of the CBA to final approval is as follows:

- 01/03/2020 – Debra Pond completed contract document changes and sent them to John Flick and Mayor Hawke for review.

Mayor Hawke and the members of the new City Council were sworn into a new term of office on January 6, 2020. It was expected that Mayor Hawke would resign imminently as he had accepted a position as Town Administrator in Westminster, MA. January 6, 2020 was also the inaugural meeting of the new City Council. The only order of business before the City Council was the election of a Council President.

- 01/13/2020 – Received communication from Dan Morgado inquiring on status.
- 01/13/2020 – Debra Pond emailed John Flick and Mayor Hawke regarding status of the contract review.
- 01/13/2020 – John Flick responded via email that contract document looked good.
- 01/17/2020 – After no response from Mayor Hawke on the status of contract review, Debra Pond spoke with John Flick and they decided to forward the documents to the Union for final review.
- 01/17/2020 – Contract with changes marked was sent to Union (Jeremy Salo) with wage schedule via email.

The next regular meeting of the City Council was Tuesday January 21, 2020. Mayor Hawke resigned that same day effective at 4:30 PM. The City Council convened at their normally scheduled time of 7:30 PM. At the time of the Council meeting Gardner had no Mayor. City Council President James Walsh, thereafter, assumed the duties of Acting Mayor.

Following the resignation of Mayor Hawke, discussions with the Union continued in order to reach a final agreement, as follows.

- 01/24/2020 (@ 3:11 PM – after City Hall closed) – Received email from Union with issues requiring review, which included minor language changes. Also notified City that there was a change in one Union officer: Matthew Bettez replaced Greg Doyle.
- 01/24/2020 (@ 3:25 PM from mobile device) – Debra Pond requested a meeting with the Union to review in person.
- Last week of January (not sure of exact date) Jeremy Salo and Matt Bettez stopped by Debra Pond's office. Questions were discussed, including wage schedule. Debra Pond informed Union she would make some language modifications and discuss the wage schedule with John Flick. The wage schedule was originally drafted with the ambulance agreement for each fiscal year plus the additional percentage agreed to tin the MOA – FY19 – 4%, FY20 – 5% AND FY21 – 2%. The Union wanted the percentages calculated out as follows: FY19 2% (ambulance), FY19 2% (MOA); FY20 3% (ambulance), FY20 2%, FY21 2% - for EMT wage schedule. This change resulted in a slight increase in the appropriation needed.

- 02/07/2020 – Jeremy Salo emailed Debra Pond inquiring about status of wage schedule. Debra Pond informed Jeremy Salo that it was all set and that all changes would be completed and sent over the following week.
- 02/11/2020 Debra Pond emailed language changes to Jeremy Salo. Language changes were approved by Union.
- 02/11/2020 The Union requested a format change to the wage schedule. Debra Pond revised and emailed a new wage schedules to the Union for review per the Union's request.
- 02/12/2020 Jeremy Salo identified a few issues with wage schedule via email to Debra Pond.
- 02/12/2020 Wage schedules were further adjusted (spreadsheet formulas) and two full contract documents were prepared for execution.
- 02/12/2020 Union executed the Contract documents. Documents were presented to Acting Mayor Walsh for execution, who requested a signature block for John Flick (as to approval of form) and John Richard, City Auditor (as to availability of funds). Both signature blocks were added.
- 02/19/2020 - City Auditor, John Richard prepared retroactive pay calculations.
- 02/24/2020 – Acting Mayor Walsh requests history of CBA negotiations and mediation from the City's Law Department.
- 02/25/2020 – Leah Barrault, the attorney for the Union filed a Charge of Prohibited Practice against the City.
- 02/26/2020 – John M. Flick, Esq. sends e-mail to Acting Mayor Walsh at 1:17 PM advising that a money order should be submitted to the City Council seeking an appropriation to fund the CBA.
- 02/26/2020 – Acting Mayor Walsh submits a money order to the City Clerk's office for submission to the City Council at 2:57 PM, CBA remains unsigned by Acting Mayor Walsh while awaiting analysis from Law Department regarding the CBA negotiation history and the Acting Mayor's authority to sign the CBA.

This timeline is provided in order to facilitate the legal analysis of your authority as Acting Mayor to sign this CBA. The signing of the CBA by all parties prior to the approval of the appropriation is contemplated by M.G.L. c. 150E, §7. Technically once the CBA is signed, a request is then sent to the City Council to approve the appropriation necessary to fund the CBA. Should the Council not approve the appropriation, the CBA is sent back to the City and Union for further negotiations. *M.G.L. c. 150E, § 7(b).*

As you know Section 32 of the City's Charter only permits the acting mayor to act in matters "not admitting of delay." An acting mayor is further limited by the Charter in that an acting mayor cannot make long term appointments. Therefore, in accordance with the Charter, the acting mayor does not possess full executive authority as does a duly elected mayor. As we have discussed, there are two court cases which address the meaning of the clause "matters not admitting of delay": *Ryan v. City of Boston*, 204 Mass. 456 (1910), and *Dimick v. Barry*, 211

Mass. 165 (1912). Despite the age of these cases, they present the controlling law on the meaning of the clause "matters not admitting of delay."

In *Ryan v. City of Boston*, the Court considered the validity of a contract to construct a public sewer signed by the then acting mayor Whelton. The Court posed the question:

> "But the powers of an acting mayor are expressly limited . . . to matters requiring immediate action. If this limitation is applicable to the defendant city, the contract is invalid, as it does not appear there was any urgent public necessity for the construction of the sewer." *Ryan,* at 459.

Dimick v. Barry provides a more robust analysis of the meaning of the clause "matters not admitting of delay." In presenting its initial analysis the *Dimick* Court states:

> "While this language should not be given narrow or refined interpretation *and should be construed in view of the practical necessities of municipal administration* . . .. The words are both plain and emphatic. They express a definite conception of a necessity so importunate that it cannot be resisted with reason." *Dimick* at 166-67.

The *Dimick* Court provides concrete examples to illustrate the meaning of "matters not admitting of delay." These examples include the following:

> "Cases might arise where it would be apparent as matter of law upon the face of the papers that the approval of the order was 'a matter not admitting of delay.' Such an inference might be drawn respecting a warrant for an election or an appropriation of money to be used for a Fourth of July celebration or a corporate anniversary, or like orders where time appears to be of the essence of the subject." *Id.* at 167.
>
> "Appropriations necessary for immediate payment of fixed charges of various municipal departments would come within this rule." *Id.*

Ultimately, the *Dimick* Court concluded: "The mayor is the one designated by law to be the executive of the city. It is not a mere passing incident which enables another to supplant him, but a *pressing urgency of an unusual kind*." *Id.* at 168.

There is no case law which addresses the interpretation of this limiting language in the context of negotiating and executing a collective bargaining agreement in accordance with M.G.L. c. 150E. When considering if a matter is "not admitting of delay" other factors to consider are whether or not the matter was before, and agreed upon, by the duly elected mayor, and the amount of time a matter had been pending before the municipality. *See Id.*

In the current matter regarding the CBA with the firefighters, M.G.L. c. 150E, §7 requires that upon execution of the CBA *by both parties*, the City is obligated, within 30 days of full execution, to seek appropriations to fund the contract from the appropriate legislative body. The threshold question is whether or not you, as Acting Mayor, have the legal authority to sign the

CBA. On the one hand, and as can be seen from the above timeline, this has been a lengthy bargaining process. The length of time that passed between the initiation of negotiations and the mediation of the MOA, the fact that multiple issues were raised by the Union regarding the interpretation of the MOA and their application to the CBA's wage schedule (after Mayor Hawke had resigned), support a conclusion that the execution of the CBA by the City is not a matter "not admitting of delay" and that the execution of, and adoption of the terms of, the CBA are properly left to the new Mayor.

When considering the fact that the final terms of the CBA were negotiated during a protracted mediation process with the Joint Labor Management Commission, involved Mayor Hawke, and ultimately resulted in a signed MOA during Mayor Hawke's term of office, supports a conclusion that Mayor Hawke would have executed the CBA were he still in office. However, the fact that the Union continued to negotiate the interpretation of the MOA as it applied to the wage schedule raises a significant question regarding the former Mayor's willingness to sign the CBA and request an appropriation from the City Council to fund the CBA. One could conclude that Mayor Hawke would not have signed the CBA in that circumstance. Nevertheless, this is an argument based on speculation and as Acting Mayor, speculation as to what the previous Mayor would have done is not a basis upon which you can assert any authority as Acting Mayor.

As you know, the limitations of your authority as Acting Mayor to execute contracts and bind the City leaves any contracts you do execute open to challenge. In looking at the facts and the timeline set forth herein (in particular the Union's continued negotiations after Mayor Hawke resigned) presents a significant legal question regarding your authority to execute the CBA and, should you do so, whether the enforceability of the CBA could be successfully challenged either by a Mayor to be elected in May 2020, another collective bargaining unit, or third parties challenging your authority as Acting Mayor.

The case law clearly states that you, as Acting Mayor, have the ability to use your sound judgment in deciding in this matter, as all others, to act and execute the CBA. Nevertheless, in order to ensure that the CBA is binding on the City, should you sign it, it may be prudent to obtain a judicial determination as to your authority to act in this particular instance.

Please let the Law Department know if you require any additional information at this time.

Very truly yours,

John M. Flick

Cc: Debra Pond, Human Resources

10250-10251

Rachel Stephano (Mayor's Office)

From: John Flick <jflick@flicklawgroup.com>
Sent: Wednesday, February 26, 2020 1:17 PM
To: Mayor
Subject: Firefighters July 1, 2018 to June 30, 2021 Contract

Acting Mayor Walsh,

In light of the legal issues pertaining to the MOA negotiated in December 2019 and the resulting Collective Bargaining Agreement (CBA) with the Firefighters, and now that the amount of the supplemental appropriation needed to fund the CBA is known, the Law Department recommends that a money order be submitted to the City Council for consideration at its March 2, 2020 meeting. Specifically, the City is required by M.G.L. c. 150E, sec. 7 to submit a money order to the appropriate legislative body for consideration of any appropriation needed to fund the contract within thirty (30) days of the execution of the agreement. Whereas the Agreement was signed by the Union on February 20, 2020, and in order to comply with M.G.L. c. 150E, it is appropriate to submit the required money order at this time.

Regards,
John Flick

****
John M. Flick, Esq., City Solicitor
City of Gardner Law Department
144 Central Street, Suite 201
Gardner, MA 01440
978-632-7948, Ext. 301 Voice
978-630-3703 Fax
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10250-10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

February 24, 2020

Attorney John Flick, City Solicitor &
Debra Pond, Director of Personnel
144 Central Street
Gardner, MA 01440

Good Morning,

I have been asked, as Acting Mayor, to sign off on the recently negotiated contract with the Firefighters Union. Since I have not been involved with negotiating that contract and am limited in my authority, I ask that you provide me with the following:

1. As I understand it, the proposed contract covers the period from July 1, 2018 through June 30, 2021. Please provide me with a history of contract negotiations. Please also include a summary of any material changes from the existing contract, and of any state agency involvement and the binding effect, if any, of that involvement. I'd also appreciate a listing of all participants in each negotiating team.

2. As you know, as Acting Mayor, my authority is limited to matters "not admitting of delay". Please provide any factual basis which would justify my execution of this contract rather than deferring it to evaluation and consideration by the newly elected Mayor in mid-May 2020.

Depending on the content of your reply, I may have additional questions.

Thank you for your prompt consideration of this request.

Very truly yours,

James M. Walsh
Acting Mayor

JMW/rjs

cc: John Richard

City Hall, 95 Pleasant Street, Room 125, Gardner, Massachusetts 01440
Telephone: (978) 630-1490 • Facsimile (978) 630-3778 • Email: mayor@gardner-ma.gov

10250-10251

CITY of GARDNER
Office of the City Auditor
John Richard, City Auditor
95 Pleasant Street, Room 126
Gardner, MA 01440
Phone: 978-632-1900 ext. 8020 • Fax: 978-630-3778
Email: jrichard@gardner-ma.gov

To: City Council

Re: Money Orders for consideration on March 25, 2020

Listed below are balances in various ledger accounts that pertain to Money Order transfers for your consideration.

These balances are as of March 25, 2020:

		Money Order	Balance
Free Cash	10000-35400		$1,244,066.00
to Fire Dept for Contract Renewal Retro Pay FY19	12220-510**	52,788.33	$1,191,277.67
to Fire Dept for Contract Renewal Retro Pay FY20	12220-510**	113,159.74	$1,078,117.93
			$1,078,117.93

The Snow & Ice account currently has available ($241,093.30)
14421-52210

Sincerely

John Richard
City Auditor

copies: Acting Mayor
City Clerk