

**REGULAR MEETING OF MAY 18, 2020**

Regular Meeting of the City Council was held remotely on Monday evening, May 18, 2020.

CALL TO ORDER

Council President Elizabeth Kazinskas called the meeting to order at 7:30 o'clock p.m.

CALL OF THE ROLL

City Clerk Alan Agnelli called the Roll of Members. Eleven (11) Councillors were present including Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, George Tyros, and James Walsh.

OPENING PRAYER

President Kazinskas led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

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

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

President Kazinskas announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Gardner City Council will be conducted via remote participation and broadcast live on Gardner Educational Television, Channel 8, and on the City's YouTube Channel. The audio or video recording, transcript, or other comprehensive record of proceedings will be posted on the City's website as soon as possible after the meeting. She added that since the meeting is being conducted via **Zoom**, that all votes taken would be by roll call and asked Councillors to raise their hands to be recognized.

READING & ACCEPTANCE OF MINUTES

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, on call of the roll, it was voted ten (10) yeas, President Elizabeth Kazinskas and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh; one (1) abstention, Councillor James Boone, to waive reading and to accept the Minutes of the March 30, 2020 Informal and Special Meetings, and the May 4, 2020 Informal and Regular Meetings, as printed.

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PUBLIC HEARING**#10272**

President Elizabeth Kazinskas opened the Public Hearing on a Petition by 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. National Grid to install 1 SO pole 4-2, sidewalk anchor/guy for customer electrical upgrade.

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

Kim Tavallaimola, representing National Grid, testified that Pole 4-2 needs to be installed in front of 53 East Broadway for the laundromat as the load that they will be carrying requires a very heavy cable strung across the street, so the new pole would support it.

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

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

There being none, President Kazinskas closed the Hearing at 7:36 p.m.

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.**#10272**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee voted favorably to recommend granting the Easement. He said that the Easement is requested by National Grid to install a pole and guy wires on City-owned property as part of the Pleasant Street Bridge Project and the relocation of the pole is part of the redesign of the project.

Councillor James Walsh moved to adopt the following Order:

GRANT OF EASEMENT

The CITY OF GARDNER, a municipal corporation with a mailing address at 95 Pleasant Street, Gardner, Massachusetts 01440 (hereinafter referred to as the Grantor), for consideration of One (\$1.00) Dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, 40 Sylvan Road, Waltham, Massachusetts 02451, a Massachusetts corporation, and VERIZON NEW ENGLAND INC., a New York corporation, having a local address of 125 High Street – Oliver Tower, 07 Floor, Boston, MA 02110 (hereinafter referred to as the Grantees) with quitclaim covenants, the perpetual right and easement to construct, reconstruct, repair, maintain, operate and patrol, for the transmission of high and low voltage electric current and for the transmission of intelligence and telephone use, lines to consist of, but not limited to, one (1) pole, (which may be erected at different times) with wires and cables installed thereon, and all necessary foundations, anchors, guys, braces, fittings, equipment and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") over, across, under and upon the Grantor's land in Gardner, Worcester County, Massachusetts, to serve Grantor's property and others.

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Said "OVERHEAD SYSTEM" is to be located in, through, under, over, across and upon Grantor's property, which is located on the northerly side of Pleasant Street, to consist of Pole P.34, to become established by and upon the final installation thereof by the Grantees.

Also with the further perpetual right and easement from time to time without further payment therefore to pass and repass, over, across and upon Grantor's land, as is reasonable and necessary, in order to renew, replace, repair, remove, add to, maintain, operate and patrol and otherwise change said "OVERHEAD SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantees, their successors and assigns, and to clear and keep cleared the portions and areas of the premises wherein the "OVERHEAD SYSTEM" is specifically located of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may, in the opinion and judgment of the Grantees, interfere with the efficient and safe operation and maintenance of the "OVERHEAD SYSTEM".

It is agreed that the "OVERHEAD SYSTEM" shall remain the property of the Grantees, their successors and assigns, and that the Grantees, their successors and assigns, shall pay all taxes assessed thereon. Grantor agrees that the rights and easement herein granted are for the purpose of providing service to Grantor's property and the further right to service others from said "OVERHEAD SYSTEM". The Grantor, for itself, its successors and assigns, covenant and agrees with the Grantees, for themselves, their successors and assigns, that this Grant of Easement and the location of the "OVERHEAD SYSTEM" may not be changed or modified without the written consent of the Grantees, their successors and assigns, which consent may be withheld by the Grantees in their sole discretion. The rights and easement herein granted are over, across and upon a certain parcel of land being more particularly described in an Instrument of Taking dated December 17, 1956, recorded with the Worcester South District Registry of Deeds in Book 3833, Page 584.

And further, said "OVERHEAD SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) is approximately shown on a sketch entitled: "EASEMENT SKETCH; Exhibit A – Not to Scale; Designer: David Terk Date: 5/1/20; Address: Pleasant Street Gardner, MA Work Order: 28579845; nationalgrid", a reduced copy of said sketch is attached hereto as "Exhibit A", copies of which are in the possession of the Grantor and Grantees herein, but the final definitive locations of said "OVERHEAD SYSTEM" shall become established by and upon the installation and erection thereof by the Grantees.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within a portion of the Grantor's land an "OVERHEAD SYSTEM" for the transmission of intelligence and for supplying electric service for the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "OVERHEAD SYSTEM".

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Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Scott Joseph Graves informed the Council that he had never seen an Easement that allows the Grantees, National Grid and Verizon, to expand the Easement which, he said, "gives me pause." He said the Easement also gives the Grantees the right to conduct excavation or excavations "which is troublesome especially in that it doesn't say who pays to fix the roads after." Continuing, he stated that "It's called an Overhead System – it's kind of odd to see the word 'excavation' and 'under' with respect to an Overhead System, but it probably has to do with the anchors and guy wires." Concluding, Councillor Graves stated that he "would like to have seen more specificity in that agreement as to how much they can add to it, what kind of excavation they can do, and whether or not they're going to fix the streets."

On the motion, on recommendation of the Finance Committee, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh, to grant the following Easement:

GRANT OF EASEMENT

The CITY OF GARDNER, a municipal corporation with a mailing address at 95 Pleasant Street, Gardner, Massachusetts 01440 (hereinafter referred to as the Grantor), for consideration of One (\$1.00) Dollar, grants to MASSACHUSETTS ELECTRIC COMPANY, 40 Sylvan Road, Waltham, Massachusetts 02451, a Massachusetts corporation, and VERIZON NEW ENGLAND INC., a New York corporation, having a local address of 125 High Street – Oliver Tower, 07 Floor, Boston, MA 02110 (hereinafter referred to as the Grantees) with quitclaim covenants, the perpetual right and easement to construct, reconstruct, repair, maintain, operate and patrol, for the transmission of high and low voltage electric current and for the transmission of intelligence and telephone use, lines to consist of, but not limited to, one (1) pole, (which may be erected at different times) with wires and cables installed thereon, and all necessary foundations, anchors, guys, braces, fittings, equipment and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") over, across, under and upon the Grantor's land in Gardner, Worcester County, Massachusetts, to serve Grantor's property and others.

Said "OVERHEAD SYSTEM" is to be located in, through, under, over, across and upon Grantor's property, which is located on the northerly side of Pleasant Street, to consist of Pole P.34, to become established by and upon the final installation thereof by the Grantees.

Also with the further perpetual right and easement from time to time without further payment therefore to pass and repass, over, across and upon Grantor's land, as is reasonable and necessary, in order to renew, replace, repair, remove, add to, maintain, operate and patrol and

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otherwise change said "OVERHEAD SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantees, their successors and assigns, and to clear and keep cleared the portions and areas of the premises wherein the "OVERHEAD SYSTEM" is specifically located of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may, in the opinion and judgment of the Grantees, interfere with the efficient and safe operation and maintenance of the "OVERHEAD SYSTEM".

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And further, said "OVERHEAD SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) is approximately shown on a sketch entitled: "EASEMENT SKETCH; Exhibit A – Not to Scale; Designer: David Terk Date: 5/1/20; Address: Pleasant Street Gardner, MA Work Order: 28579845; nationalgrid", a reduced copy of said sketch is attached hereto as "Exhibit A", copies of which are in the possession of the Grantor and Grantees herein, but the final definitive locations of said "OVERHEAD SYSTEM" shall become established by and upon the installation and erection thereof by the Grantees.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within a portion of the Grantor's land an "OVERHEAD SYSTEM" for the transmission of intelligence and for supplying electric service for the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "OVERHEAD SYSTEM".

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Presented to the Acting Mayor for Approval – May 19, 2020

Approved – May 19, 2020

ELIZABETH J. KAZINSKAS, Acting Mayor

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#10273

Reporting for the Public Safety Committee on Calendar items #10273, #10274, and #10275, Committee Chairman Councillor Craig Cormier informed the Council that Police Detective Lieutenant Eric McAvene reported that the Police Department has no issues with any of the three Applicants. Chairman Cormier added that all Applicants “are in Good Standing.”

On a motion by Councillor Karen Hardern and seconded by Councillor George Tyros, on recommendation of the Public Safety Committee, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh, to grant to Gardner Coins & Cards, Inc. a License to Deal in Secondhand Articles at 13 Pleasant Street for the period May 1, 2020 through April 30, 2021.

#10274

On a motion by Councillor Karen Hardern and seconded by Councillor George Tyros, on recommendation of the Public Safety Committee, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh, to grant to GameStop, Inc. a License to Deal in Secondhand Articles at 376 Timpany Boulevard for the period May 1, 2020 through April 30, 2021.

#10275

On a motion by Councillor Karen Hardern and seconded by Councillor George Tyros, on recommendation of the Public Safety Committee, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh, to grant to ecoATM, LLC a License to Deal in Secondhand Articles at 677 Timpany Boulevard for the period May 1, 2020 through April 30, 2021.

REPORTS OF STANDING COMMITTEES**PUBLIC SERVICE COMMITTEE****#10260**

Councillor Nathan Boudreau, Chairman of the Public Service Committee, reported that the Committee voted to recommend that the Petition be granted.

On a motion by Councillor Nathan Boudreau and seconded by Councillor Judy Mack, on recommendation of the Public Service Committee, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig



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Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh, to adopt the following Order:

ORDER FOR POLE AND WIRE LOCATIONS

By the City Council of the City of Gardner, Massachusetts

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

IT IS HEREBY ORDERED:

That NATIONAL GRID be and is hereby granted a location for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Company dated the 26th day of March, 2020.

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

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

No. 27407276..... Dated: March 26, 2020 - filed with this order.

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

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

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.
National Grid to install 1 SO pole 4-2, sidewalk anchor/guy for customer electrical upgrade.

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 the petitioner may desire for distributing purposes.

PUBLIC SAFETY COMMITTEE

#10254

Reporting for the Public Safety Committee, Committee Chairman Councillor Craig Cormier informed the Council that the Committee met and brought constituent concerns to the attention of Deputy Chief of Police James Trifiro; that the Committee voted to recommend that the Ordinance be referred back to the Traffic Commission for further public comment and to come back with recommendations; and, to remove the Measure from the Calendar:



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On a motion by Councillor Craig Cormier and seconded by Councillor James Walsh, on recommendation of the Public Safety Committee, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh, to refer the following Ordinance back to the Traffic Commission for further public comment and to remove from the Calendar:

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

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

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

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Nutting Street	Both	Entire length

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

NEW BUSINESS

Councillor Aleksander Dernalowicz informed the Council that the Gardner Municipal Golf Course is open and asked that social distancing rules be observed.

Councillor Scott Joseph Graves informed the Council that he participated in an MMCA Webinar on budgets affected by the COVID-19 pandemic and that the City Council has the right to submit its own budget, which was discussed at the Webinar.

Councillors Judy Mack and James Walsh encouraged voters to vote by mail via Early Ballot for the upcoming Preliminary Election.

CLOSING PRAYER

President Kazinskas led the Council in the Closing Prayer.

ADJOURNMENT

On a motion by Councillor Nathan Boudreau and seconded by Councillor Aleksander Dernalowicz, on call of the roll, it was voted eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, George Tyros, and James Walsh, to adjourn at 7:51 p.m.

Accepted by the City Council: *June 1, 2020*