



City of Gardner, Massachusetts  
Office of the City Council

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CALENDAR FOR THE MEETING  
of  
TUESDAY, APRIL 21, 2020  
REMOTELY\*  
7:30 P.M.



ORDER OF BUSINESS

I. CALL TO ORDER

II. CALL OF THE ROLL OF COUNCILLORS

III. OPENING PRAYER

IV. PLEDGE OF ALLEGIANCE

V. 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.

VI. READING OF MINUTES OF PRIOR MEETING(S)

Reading and Approval of the Minutes of the April 6, 2020 Regular Meeting.

VII. PUBLIC HEARINGS

VIII. COMMUNICATIONS FROM THE ACTING MAYOR

IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

10265—A Measure Endorsing Various Provisions of Chapter 53 of the Acts of 2020 (*Finance Committee*).

10266—A Measure Discontinuing Use of AccuVote ES2000 Optical Scan Tabulators and Implementing use of ImageCast® Precinct Optical Tabulators, effective for the September 1, 2020 State Primary (*Finance Committee*).

10267—A Communication from the Greater Gardner Chamber of Commerce Relative to Resources for Business Owners and Managers During COVID-19.

X. REPORTS OF STANDING COMMITTEES

PUBLIC SERVICE COMMITTEE

10260—A Petition by National Grid for permission to install one (1) SO Pole on East Broadway beginning at a point approximately 115' southeast of the centerline of Prospect Street (*Public Service Committee*)(*Public Hearing Pending*).

## **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)*.

## **XI. 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)*.

## **XII. NEW BUSINESS**

## **XIII. CLOSING PRAYER**

## **XIV. ADJOURNMENT**

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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.

*\*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. 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.*

**REGULAR MEETING OF APRIL 6, 2020**

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Regular Meeting of the City Council was held remotely on Monday evening, April 6, 2020.

**CALL TO ORDER**

As a result of the Council President vacancy, City Clerk Alan Agnelli called the meeting to order at 7:30 o'clock p.m. and announced that Councillors would participate remotely via Zoom Video Conferencing due 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. 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.

**ELECTION OF THE COUNCIL PRESIDENT**

The City Clerk announced that nominations were in order for the election of the Council President (Councillor James M. Walsh submitted his resignation, effective at 7:30 p.m.)

Reading from a prepared Statement, Councillor Karen Hardern nominated Councillor Scott Joseph Graves, noting his strength, maturity, experience, and someone with a great mind to be Council President and Acting Mayor. Councillor James Boone seconded the nomination.

Councillor Judy Mack nominated Councillor Elizabeth J. Kazinskas, reading aloud the following Statement (submitted):

“It is with pleasure that I nominate Ward 2 Councillor Elizabeth Kazinskas for Council President. Councillor Kazinskas has served the city and her constituents well during her tenure on the council.

Experience comes in a number of different ways. Many of the city's former mayors have had less experience and served the city admirably. Councillor Kazinskas has worked previously in the Mayor's office and is familiar with the daily running of city government. She has worked closely with the department heads and continues to do so on behalf of her constituents as she serves on the finance and public safety committees.

Councillor Kazinskas is committed to the city, I think it's fair to say she is at more community events than any other member of the council. Her passions for the city with her business knowledge, levelheadedness and professional demeanor, as well as her availability to commit the time needed to both positions as council president and for the remaining brief tenure of acting mayor is why I without hesitation make this nomination.”

Councillor Nathan Boudreau seconded the nomination.

REGULAR MEETING OF APRIL 6, 2020

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There being no further nominations, the City Clerk entertained a motion to close nominations.

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

On call of the roll:

Councillor James S. Boone voting for SCOTT JOSEPH GRAVES  
Councillor Nathan R. Boudreau voting ELIZABETH J. KAZINSKAS  
Councillor Craig R. Cormier voting for ELIZABETH J. KAZINSKAS  
Councillor Ronald F. Cormier voting for ELIZABETH J. KAZINSKAS  
Councillor Aleksander H. Dernalowicz voting for ELIZABETH J. KAZINSKAS  
Councillor Scott Joseph Graves ABSTAINED.  
Councillor Karen G. Hardern voting for SCOTT JOSEPH GRAVES  
Councillor Judy A. Mack voting for ELIZABETH J. KAZINSKAS  
Councillor Elizabeth J. Kazinskas voting for ELIZABETH J. KAZINSKAS  
Councillor George C. Tyros voting for ELIZABETH J. KAZINSKAS  
Councillor James M. Walsh voting for ELIZABETH J. KAZINSKAS

Having received eight (8) votes, Councillor Elizabeth J. Kazinskas was declared elected Council President.

President Kazinskas assumed the Chair and expressed her appreciation to her colleagues, as follows:

"I think it's fair to say that this is the most unique set of circumstances under which any Council President has been elected in recent memory.

I want to thank all of you, especially those of you who voted for me for humbling me with your support and confidence.

A matter of Council business, as Council President I will assume the Chair of the Finance Committee, and Councillor Walsh will take my former seat as member of the Finance Committee.

I want to give my fellow Councillors and the public my intentions and plans for the coming days as I chart a course forward.

I will debrief outgoing Acting Mayor James Walsh to get up to speed on the most current state of our City. I will connect with the Executive Assistant to the Mayor Rachel Stephano, to develop a plan for the operations of the office. I will conduct one-on-one meetings

**REGULAR MEETING OF APRIL 6, 2020**

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by phone, with our City Department Heads to assess the readiness, condition, and prospects for the near and medium term for each of their departments. I will then compile a report and share it publicly.

I will also be in touch with you, my fellow Councillors, to set up one-on-one phone meetings with you to give you the opportunity to express any thoughts, concerns or questions you may have and to solicit from you input on priorities moving forward. I will also do the same with Jennifer Pelavin, Vice-Chair of the School Committee. I think a continued, productive dialogue between all of us, as City leaders, is essential.

Next I will contact State Senator Dean Tran, State Representative Jon Zlotnik, Greater Gardner Chamber President Carol Jacobsen, and Heywood Healthcare CEO Win Brown to formally notify them of my new position and open a line of communication. I will also inquire with Senator Tran, and Representative Zlotnik as to any other state officials I should contact.

Lastly, once we make a decision as to the new dates for the Special Mayoral Election, I will establish communication with each of the four campaigns as it is my intention, once the preliminary election is concluded, to brief, and keep up to speed the two finalist candidates to smooth the eventual transition as it will be far speedier than during a normal election cycle, and come at an important time in the City's fiscal year.

I'd like to thank Councillor James Walsh for his work as our Council President and Acting Mayor. Thank you."

**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 the meeting is being broadcast live and recorded on Gardner Educational Television and asked that Councillors raise their hands to be recognized, since the meeting is being conducted via Zoom.

**READING & ACCEPTANCE OF MINUTES**

On a motion by Councillor Ronald Cormier and seconded by Councillor George Tyros, 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 waive reading and to accept the Minutes of the March 16, 2020 Regular Meeting, as printed.

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PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.**#10257**

On a motion by Councillor Craig Cormier 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 place on file a communication from Councillor James Walsh announcing his resignation as Council President.

**#10258**

Councillor James Walsh moved to schedule the postponed April 7, 2020 Special City Preliminary Election for May 12, 2020 and the postponed May 5, 2020 Special City Election for June 9, 2020. Councillor Karen Hardern seconded the motion.

On a motion, Councillor James Walsh stated that at the Informal Meeting, the Council discussed the pros and cons of different dates and noted that at its most recent meeting, the Council voted to postpone the April 7 Special Preliminary and the May 5 Special Election as a result of the Governor's Order and the COVID-19 consequences. He said the elections must be completed on or before June 30 and that the two elections must be held 4 weeks apart and scheduled at least 20 days in advance. He suggested that the election be held sooner so that an elected Mayor would be office to make decisions associated with the end of the Fiscal Year and for the beginning of the new Fiscal Year on July 1. "It is a guessing game," he said, "but the Declaration of Emergency is scheduled to end on May 4, and by scheduling the Preliminary on May 12, that strikes the right balance for the concern for people voting and those taking advantage of early voting by mail." He added that those voters who already voted by Absentee will have their votes counted for the new date.

On the motion, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros; one (1) abstention, Councillor Scott Joseph Graves, to adopt the following:

POSTPONED SPECIAL CITY PRELIMINARY ELECTION  
AND POSTPONED SPECIAL CITY ELECTION SCHEDULE

VOTED: To schedule the postponed April 7, 2020 Special City Preliminary Election for May 12, 2020 and the postponed May 5, 2020 Special City Election for June 9, 2020.

Presented to the Acting Mayor for Approval – April 9, 2020

Approved – April 10, 2020

ELIZABETH J. KAZINSKAS, Acting Mayor

REGULAR MEETING OF APRIL 6, 2020

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**#10259**

Leading to a motion, Councillor James Walsh stated that correspondence from the Attorney General's Office was delivered to him while he was Council President, although the letter was addressed to former Council President Scott Graves who was President at the time that the Complaint was initiated. He said that the correspondence is a ruling on an Open Meeting Law Complaint concerning an e-mail dated September 4, 2019 in which former Councillor Christine Johnson responded to an e-mail which was submitted to then-Mayor Hawke and all Councillors were copied on the e-mail. She then responded and copied all of the Councillors at the same time. The Ruling from Assistant Attorney General Elizabeth Carnes Flynn of the Division of Open Government said that [the e-mail] was a violation of the Open Meeting Law. He read aloud the Conclusion, as follows:

“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.”

Continuing, Councillor Walsh informed the Council that he contacted Assistant Attorney General Flynn to learn what would constitute a release. He said that she advised him that as long as the September 4, 2019 e-mail was included with the Minutes of tonight's meeting, then that would be adequate release.

Councillor James Walsh moved to place on file the March 13, 2020 Ruling from the Attorney General relative to an Open Meeting Law Complaint and that former Councillor Christine Johnson's e-mail of September 4, 2019 be included in the Minutes of the meeting.

Councillor Craig Cormier seconded the motion.

On the motion, Councillor Scott Graves stated that he believes that it is important to note the name of the Complainant that deserves mention and that is the Complaint of Paul DeMeo. He added that although it is a violation of the Open Meeting Law, when the Council looked at it when he was Council President, “it is a close call ... and so easily can be done.” “We hit ‘reply all’ so often that when you hit send, it is too late. I think that is why the Attorney General's Office has been fairly lenient on public bodies. These things happen ... probably never done on purpose, usually an inadvertent mistake. He concluded, saying that he sent out the Open Meeting Law Guide and other information so that the Council had a chance to review it and we are now more cognizant,” he added

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On the motion, 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 place on file the Ruling from the Attorney General relative to an Open Meeting Law Complaint and that former Councillor Christine Johnson's e-mail of September 4, 2019 be included with the Minutes of the Council meeting.

**#10260**

On a motion by Councillor Nathan Boudreau and seconded by Councillor Karen Hardern, 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 refer *A Petition by National Grid for permission to install one (1) SO Pole on East Broadway beginning at a point approximately 115' southeast of the centerline of the intersection Prospect Street* to the Public Service Committee for study and report and that a Public Hearing be scheduled.

**#10261**

Leading to a motion, Councillor Ronald Cormier informed the Council that by presenting the Ordinance, he was trying to address what he feels "is an injustice in the lack of remuneration for an Acting Mayor [serving] for a long period of time." He added that the proposal is not exactly what he wanted, so he moved to remove the Ordinance from the Calendar.

Councillor Craig Cormier seconded the motion.

On the motion, on call of the roll, it was voted nine (9) yeas, Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, and George Tyros; two (2) abstentions, President Elizabeth Kazinskas and Councillor James Walsh, to remove the following Ordinance from the Calendar:

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



## REGULAR MEETING OF APRIL 6, 2020

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**

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, 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 place on file a *Communication from the Gardner Contributory Retirement Board relative to a cost-of-living adjustment for retirees and beneficiaries.*

**REPORTS OF STANDING COMMITTEES**

**PUBLIC SAFETY COMMITTEE**

**#10254**

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

| <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.

**PUBLIC WELFARE COMMITTEE**

**#10252**

Public Welfare Committee Chairman Scott Graves reported that the Planning Board is scheduled to meet on May 12 to discuss the Petition, but that the meeting might take place on April 28; therefore, the Committee is requesting for time. 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.*

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FINANCE COMMITTEE**#10250**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee's report addresses both #10250 and #10251, for which the Committee is seeking more time as it is awaiting a Judicial Determination of the authority of an Acting Mayor to sign the contract.

Continuing, he said that #10250 provides funding for FY2019 for the proposed Firefighters' Contract in the amount of \$52,788.33.

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**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee is seeking more time as it is awaiting a Judicial Determination of the authority of an Acting Mayor to sign the contract.

Continuing, he said that #10251 provides funding for FY2020 for the proposed Firefighters' Contract. He noted that the Council was provided with documentation provided by the City Auditor that details a computation error in arriving at the necessary funding for FY2020. He noted that the first calculation included a 2% adjustment using current wage rates and for FY2020 included another 2% on the current wage rates, thus not taking into account the compounded rates. So, when the Order is presented, the Committee will seek to substitute the Money Order to read \$113,159.74.

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.



## REGULAR MEETING OF APRIL 6, 2020

UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**#10252**

With action pending before the Planning Board, *A Petition by Traven Development LLC to renew the designation of two (2) parcels at 525 Parker Street as a Development Overlay District 1* was continued.

NEW BUSINESS**#10263**

President Kazinskas recognized Councillor Boudreau.

Councillor Nathan Boudreau stated that on March 19, 2020, the Council received a message from Gardner Firefighter Matt Bettez (Ref. Calendar Nos. 10250 & 10251). He said that as he was heading to a meeting, he replied to the e-mail, but replied to all in error. He said that he was bringing the matter to the Council's attention per the directive of the Attorney General's Office of Open Government to whom he self-reported. He asked that the self-report be made part of the meeting record.

On a motion by Councillor Nathan Boudreau and seconded by Councillor Aleksander Dernalowicz, on call of the roll, it was voted ten (10) yeas, President Elizabeth Kazinskas and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Judy Mack, George Tyros, and James Walsh; one (1) nay, Councillor Scott Joseph Graves, to include in the Minutes of the Meeting the *Self-Reporting of an OML Violation concerning a March 19, 2020 e-mail that Councillor Nathan Boudreau copied to all Councillors that was e-mailed to Firefighter Matthew Bettez (Ref. Cal. Nos. 10250 & 10251)*.

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Councillors extended congratulations to Councillor Elizabeth Kazinskas on her election as Council President and expressed appreciation to Councillor James Walsh for his service as Council President.

Councillor Scott Graves informed the Council that the Council is still able to meet since it is exempted from the 10 people or less restricted meetings or gatherings. "We can still have public meetings as we always have had, just spread out for social distancing," he said.

Councillor Judy Mack informed the Council that as it is only her seventh meeting, so she is still learning. She offered an apology to Councillor Graves for "her vote on the motion that he made regarding the language on the sewer ordinance [solid waste fees] at the last meeting." "In hindsight," she said, "I would have voted 'yes'." She said that it is difficult to receive information minutes before a meeting "which has happened twice thus far" and "be able to make a fair decision." In the future, she said, she would request that if Councillors have additional information, it would be helpful to have it before a meeting. "If not and if I feel that I need more time, I will make a motion to table so that I have the ability to look things



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**REGULAR MEETING OF APRIL 6, 2020**

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over so I can make sure that I am voting correctly.” Continuing, she stated that there have been very few votes, thus far, but that her votes are based solely on the information that she receives and if she makes the wrong decision, she will own it, but also stand by the votes that she believes are in the best interest of the City, its taxpayers, and citizens.

Continuing, Councillor Mack said, “We are experiencing very unsettling times and is concerned about our community, the well-being of our citizens, the small businesses in Gardner that have been greatly affected and been ordered to close. This is still the beginning of this pandemic and I fear the worst is yet to come. I want to encourage people to stay home, to social-distance, and stay safe.” Lastly, she expressed thanks and appreciation to all those that keep the Citizens safe.

Councillor George Tyros stated that he “feels that there are many Councillors who have strengths that can help the City through these challenging times, individually, and if the Council works as a team, those Councillors will be much more effective.” “The months ahead,” he said, “are not going to be easy and we’ll be forced to make tough decisions and for the sake of public health the community will go under immense stress – medically, financially, and emotionally.” “We all need to be there for one another and work as a team, even if there are disagreements here or there, we must make the best decisions we can and move on,” he added.

Councillor George Tyros reminded residents to return their Census 2020 forms as the Census has major financial implications for the City.

Councillor James Walsh expressed appreciation to his colleagues for placing their confidence in him during his tenure as Council President and as Acting Mayor. He also expressed thanks to all Department Heads for providing guidance to him and especially to Rachel Stephano for her perspective, guidance, and her suggestions.

Continuing, Councillor Walsh outlined the challenges ahead, including the use of Free Cash and the potential revenue shortfall due to the emergency.

**CLOSING PRAYER**

President Kazinskas led the Council in the Closing Prayer.

**ADJOURNMENT**

On a motion by Councillor James Walsh and seconded by Councillor Karen Hardern, 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 8:17 p.m.

**Accepted by the City Council:**

18259

**Alan Agnelli**

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**From:** Christine Johnson <christine.johnson2014@comcast.net>  
**Sent:** Wednesday, September 4, 2019 8:51 AM  
**To:** PAUL DEMEO  
**Cc:** Mayor; Rachel Stephano (Mayor's Office); James Boone; Nate Boudreau; Craig Cormier; Councillor R Cormier; Gravel, Ed; Scott Graves; Councillor K Hardern; Councillor J Johnson; Elizabeth Kazinskas; James M. Walsh; newstips@telegram.com; News@sentinelandenterprise.com; newstips@wbztv.com; newstips@whdh.com; news@wgaw1340.com; newsroom@wcvb.com; karyn.polito@state.ma.us; carolynkamuda@aol.com; Michellewells11@icloud.com; jeff palmieri; Alan Agnelli; slandry@thegardnernews.com; ddurling@thegardnernews.com; Jennifer Dymek  
**Subject:** Re: Mayor pays women less in Gardner

Mr Demeo,

I find I interesting the people who have a Grudge against the Mayor are fabricating such an outlandish statement bordering on defamation of character.

You fail to acknowledge that the 3 women on the Council agree with the change in the salary Ordinance.

I take offense to the statement that women are paid less in our city. The women and men in the city are paid according to experience and required certificates in the city.

I find it interesting that no facts as to the reason for reduction of salary are mentioned.

As I stated in the meeting there were half truths stated last night and I made points as to why anyone was paid less than ordinance.

Mayor Hawke was clearly upset at the remarks of a Councillor stating that he was sexually bias against women. Any human would have reacted the same way.

As a woman I find your email appalling and disgraceful.

Thank you  
Christine Johnson

Christine Johnson

On Sep 3, 2019, at 11:36 PM, PAUL DEMEO <[ryanrealty@comcast.net](mailto:ryanrealty@comcast.net)> wrote:

Mr. Mayor,

Your behavior was shameful at the Gardner City Council meeting tonight. It is apparent you became so defensive because you do in fact **pay women less in the City of Gardner.**

City Councilor Walsh did the research on the salary discrepancy between men and women in Gardner and I believe his facts to be correct tonight. As a retired attorney, Atty. Walsh dealt with facts his whole career.

Out of the eleven men hired in recent years **only one** was hired at a reduced salary. Ten received the same salary as the predecessor.

In the same time period three women were hired and **two had to accept a reduced salary! Dymek tonight! Shameful!**

**Yes, you got your way tonight with Jennifer Dymek, the City of Gardner's new Treasurer as she was forced to accept \$1400 less than her predecessor and the city council on a 6/5 Vote, carried out *your agenda* once again.**

**You wrongfully fired Board of Health Agent Jennifer Susen Roy back in the Spring and paid her "hush money" to be silent. Those facts will be coming out and disclosed publicly.**

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**Anybody can review the video of the taped meeting tonight online.**

It's time for you to step down as mayor in the City of Gardner and move on..... twelve years is more than enough!

Regards,

Paul DeMeo

**Alan Agnelli**

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**From:** Nathan R. Boudreau  
**Sent:** Friday, April 3, 2020 11:28 AM  
**To:** Alan Agnelli  
**Cc:** John Flick; James M. Walsh  
**Subject:** Fwd: Self Report

Alan,

Per Attorney Benedon's suggestion, I will be bringing this up under new business at the meeting on Monday. Is there a way to get the document included in the packet this late?

Thank you,

Councilor Nathan R Boudreau

Begin forwarded message:

**From:** "OpenMeeting (AGO)" <[openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)>  
**Date:** April 3, 2020 at 11:22:18 AM EDT  
**To:** "Nathan R. Boudreau" <[nboudreau@gardner-ma.gov](mailto:nboudreau@gardner-ma.gov)>  
**Subject:** Re: Self Report

Nathan,

Thank you for contacting the Division of Open Government. We appreciate your recognition of this accidental deliberation and desire to correct it. In this situation, we recommend that at the next public meeting you mention that you accidentally sent the email to a quorum of the city council, and include your email in the list of documents used at the meeting so that it becomes part of a public meeting record.

Sincerely,

Carrie Benedon  
Assistant Attorney General  
Director, Division of Open Government  
Massachusetts Office of the Attorney General  
(617) 963-2540

---

**From:** Nathan R. Boudreau <[nboudreau@gardner-ma.gov](mailto:nboudreau@gardner-ma.gov)>  
**Sent:** Friday, April 3, 2020 10:49 AM  
**To:** OpenMeeting (AGO) <[OpenMeeting@MassMail.State.MA.US](mailto:OpenMeeting@MassMail.State.MA.US)>  
**Subject:** Self Report

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

It has been brought to my attention that I sent the following to the entire Gardner City Council. I didn't hit reply all and thought the message was to me individually.

I wanted to self report this in the name of transparency. Please let me know if there is anything else I can do.

Thank you,

Nathan Boudreau  
City Councilor  
City of Gardner  
978-807-0829 (Mobile)

Begin forwarded message:

**From:** "Nathan R. Boudreau" <[nboudreau@gardner-ma.gov](mailto:nboudreau@gardner-ma.gov)>  
**Date:** March 19, 2020 at 4:49:14 PM EDT  
**To:** Matt Bettez <[mattbettez@gardner-ma.gov](mailto:mattbettez@gardner-ma.gov)>  
**Cc:** Councillor K Hardern <[karenhardern@hotmail.com](mailto:karenhardern@hotmail.com)>, Councillor R Cormier <[railron@aol.com](mailto:railron@aol.com)>, Councillor S Graves <[sgraveslawoffice37@gmail.com](mailto:sgraveslawoffice37@gmail.com)>, Craig Cormier <[ccormier@gardner-ma.gov](mailto:ccormier@gardner-ma.gov)>, Elizabeth Kazinskas <[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)>, James Boone <[jboone@gardner-ma.gov](mailto:jboone@gardner-ma.gov)>, "James M. Walsh" <[jwalsh@gardner-ma.gov](mailto:jwalsh@gardner-ma.gov)>, "Karen G. Hardern" <[khardern@gardner-ma.gov](mailto:khardern@gardner-ma.gov)>, Ronald F Cormier <[roncormier@gardner-ma.gov](mailto:roncormier@gardner-ma.gov)>, George Tyros <[gtyros@gardner-ma.gov](mailto:gtyros@gardner-ma.gov)>, Judy Mack <[jmack@gardner-ma.gov](mailto:jmack@gardner-ma.gov)>, Alek Dernalowicz <[adernalowicz@gardner-ma.gov](mailto:adernalowicz@gardner-ma.gov)>  
**Subject:** Re: Firefighter's COLA adjustment

Thank you, sir!

Those funds have already been earned and are well deserved to our fire department, especially in the current situation. This has already been held up long enough in negotiations. You can count on my support when it comes to the table.

-Nate

Sent from my iPhone

On Mar 19, 2020, at 4:30 PM, Matt Bettez <[mattbettez@gardner-ma.gov](mailto:mattbettez@gardner-ma.gov)> wrote:

City Council Members,

I am writing in reference to City Council items 10250 and 10251 which are money appropriations for the Gardner Firefighter's cost of living adjustments for FY 2019 and FY 2020. These money orders represent a 2% COLA dating back to July 2018. Relative to the rate at which consumer goods, food, clothing, housing and other goods and services is rising 2% is not a large amount. This 2% adjustment is the same that other city unions have negotiated and received for this same time period over a year and half ago. We have been working on negotiations and finalization for our most recent contract, which covers July 2018 to June 2021, since the beginning of 2018. This contract has required us beyond regular negotiations to get our attorney involved and ultimately go before the Joint Labor Management Committee (JLMC) just to get the 2% adjustment we were seeking to match the other city unions. Through the JLMC the City and Firefighters came to a binding agreement as to terms and wage increases for the new contract on December 16 of 2019. The new contract language and wage schedules were finally completed by the City and then signed by the Firefighters on February 20, 2020. Currently, these two money orders are being held up in the City Council, in particular the Finance Committee because Acting Mayor Walsh is questioning the ability to sign the 2018-2021 contract that had previously been negotiated and agreed upon. It is my understanding that the money can be appropriated through the Council regardless of whether or not the contract is fully executed by the City. This action would at least assure that the money is available and ready when the contract is finally signed. I am asking for the City Council to put forth a motion to approve the money order. I hope you will support this motion and in turn show support for your local first responders. Feel free to contact me with any questions or comments you may have at (978) 501-5116. Thank you for your time and consideration.

Respectfully,  
Matthew Bettez  
Local IAFF 2215 VP

ENDORISING VARIOUS PROVISIONS OF  
CHAPTER 53 OF THE ACTS OF 2020

*VOTED:*

Part I. That the City of Gardner hereby endorses Section 10(a)(i-iii) of Chapter 53 of the Acts of 2020 which authorizes the City, through its Chief Executive Officer, to extend the due dates of property tax bills from May 1, 2020 to no later than June 1, 2020.

Part II. That the City of Gardner hereby endorses Section 10(a)(iv) of Chapter 53 of the Acts of 2020 which authorizes the City, through its Chief Executive Officer, to extend the due date for exemptions filed in accordance with M.G.L. c. 59, sec. 59 from April 1, 2020 to no later than June 1, 2020.

Part III. That the City of Gardner hereby endorses Section 11 of Chapter 53 of the Acts of 2020 which authorizes the City, through its Chief Executive Officer, to waive interest and other penalties for late payments of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 where payment is made after its respective due date but before June 30, 2020.

10265

**Mayor**

**From:** John Flick <jflick@flicklawgroup.com>  
**Sent:** Wednesday, April 15, 2020 11:22 AM  
**To:** Mayor  
**Subject:** Chapter 53 of the Acts of 2020  
**Attachments:** Letter to Elizabeth Kazinskas.pdf



Madame President:

Attached please find my revised letter regarding the observation of certain sections of Chapter 53 of the Acts of 2020. Please note that since completing this letter and sending it to you, we received the guidance from DLS that I reference in my last paragraph. Based on the guidance provided, you can disregard the last paragraph of my letter. No further action of the City Council is legally required. My recommendation to obtain the endorsement of the council is all I recommend at this time.

Regards,  
John

\*\*\*\*\*

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

\*\*\*\*\*

**WIRE FRAUD ALERT:** If you receive an e-mail from this office requesting that you wire or otherwise transfer funds, you must confirm the request and any corresponding instructions by telephone with this office before you initiate any transfer.

**United States Internal Revenue Service (IRS) Circular 230 disclosure:** To ensure compliance with requirements imposed by the IRS, we inform you that, unless and to the extent we otherwise state, any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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CITY OF GARDNER  
LAW DEPARTMENT



John M. Flick  
City Solicitor

Priya Gandbhir  
Assistant City Solicitor



144 Central Street, Suite 201  
Gardner, MA 01440

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

Writer's Email:

April 15, 2020

**VIA FIRST CLASS MAIL  
AND ELECTRONIC DELIVERY**

Elizabeth Kazinskas, Council President  
City of Gardner  
95 Pleasant Street  
Gardner, MA 01440

Re: Acting Mayor Authority as Chief Executive Officer

Dear President Kazinskas:

As you know, Governor Baker recently signed Chapter 53 of the Acts of 2020. This Act authorizes municipalities, in part through their respective chief executive officers, to provide some relief from timely payments of taxes and other municipal fees. It is my opinion, based on the language of the Act, that these statutory authorizations do not require local acceptance by the City Council. However, given the current state of the City's Executive Office, it would be prudent for the City to seek the City Council's endorsement of the City's compliance with these legislative provisions as they will provide some financial relief to the City's taxpayers during the COVID-19 state of emergency. The proposed language for the endorsements are as follows:

1. The City Council of the City of Gardner hereby endorses the City's compliance with Section 10(a)(i-iii) of Chapter 53 of the Acts of 2020 which authorizes the City, by and through its Chief Executive Officer, to extend the due dates of property tax bills from May 1, 2020 to no later than June 1, 2020.
2. The City Council of the City of Gardner hereby endorses the City's compliance with Section 10(a)(iv) of Chapter 53 of the Acts of 2020 which authorizes the City, by and through its Chief Executive Officer, to extend the due date for exemptions filed in accordance with M.G.L. c. 59, sec. 59 from April 1, 2020 to no later than June 1, 2020.

3. The City Council of the City of Gardner hereby endorses the City's compliance with Section 11 of Chapter 53 of the Acts of 2020 which authorizes the City, by and through its Chief Executive Officer, to waive interest and other penalties for late payments of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 where payment is made after its respective due date but before June 30, 2020.

The authority set forth in the statute to grant these statutory waivers is given to the City's Chief Executive Officer. As the Acting Mayor, and given that the authorities granted by this legislation can only be exercised during a limited period of time, i.e. April 1, 2020 through June 1, 2020, it is my legal opinion that you, as Acting Mayor, have the legal authority to consider and act on any requests which may be forthcoming to the City pursuant to these local option statutes.

It is pertinent to note that we are awaiting further guidance from DLS on the implementation of Chapter 53 of the Acts of 2020. Should this guidance place any other requirements on the City, such as local adoption of any of the statutory provisions by the City Council, the Law Department will timely advise of steps which need to be taken. The Law Department suspects that adoption by the City Council will not be required as that will trigger the need to convene town meeting.

Please let me know if you have any questions.

Very truly yours,

  
John M. Flick



10265

**FREQUENTLY ASKED QUESTIONS (FAQs)  
“AN ACT TO ADDRESS CHALLENGES FACED BY MUNICIPALITIES  
AND STATE AUTHORITIES RESULTING FROM COVID-19”  
Sections 10 AND 11 of Chapter 53 of the Acts of 2020**

Frequently asked questions (FAQs) published by the Division of Local Services (DLS) within the Department of Revenue provide general information about Massachusetts municipal tax and finance laws and DLS policies and procedures in effect when published. They do not answer all questions or address complex issues about their topics. FAQs are not public written statements of the Department. They are informational only as described in [830 CMR 62C.3.1\(9\)\(c\)](#), and do not supersede, alter or otherwise change any Massachusetts General Law, Department public written statement or other source of law.

**These FAQs provide answers to questions of municipal officials regarding sections 10 and 11 of “An Act To Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19”, [c. 53 of the Acts of 2020](#), (the Act) signed by Governor Baker on April 3, 2020.**

**FAQs Regarding Extension of Due Date of Property Tax Bills - Section 10**

**SECTION 10.** (a) Notwithstanding any general or special law to the contrary, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, and the governor’s March 10, 2020 declaration of a state of emergency, for fiscal year 2020, the chief executive officer of a city or town, as defined in clause Fifth B of [section 7 of chapter 4 of the General Laws](#), or a district may extend:

(i) for the purposes of the first paragraph of [section 57 of chapter 59 of the General Laws](#), the date May 1 to a date not later than June 1, 2020;

(ii) for the purposes of the seventh and eighth paragraphs and the tenth and eleventh paragraphs of [section 57C of said chapter 59](#), the date May 1 to a date not later than June 1, 2020;

(iii) for the purposes of the seventh paragraph of said [section 57C of said chapter 59](#), the date April 1 to a date not later than June 1, 2020; and

(iv) for the purposes of the third paragraph of said [section 59 of said chapter 59](#), the date April 1 to a date not later than June 1, 2020.

(b) Notwithstanding said sections [57](#), [57C](#) and [59](#) of said [chapter 59](#) or any other general or special law to the contrary, if municipal offices are closed as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, or the governor’s March 10, 2020 declaration of a state of emergency on the date that a tax payment, abatement or exemption application is due, the due dates shall not be extended except pursuant to this section.

- 1. We understand that sections 10(a)(i)-(iii) permit the Chief Executive Officer (CEO) of a city, town or district to extend the due date of property tax bills under [G.L. c. 59, §§ 57](#) and [57C](#) from either April 1 or May 1, as applicable, to a**

**date no later than June 1. Can the CEO choose which property tax bills or which property taxpayers are eligible for this extension? For example, can the CEO extend the due dates for real property tax bills, but not personal property tax bills, or extend the tax bills of senior real property taxpayers only?**

No – The wording of sections 10(a)(i)-(iii) allows only a change of the due date contained within the referenced paragraphs of sections [57](#) or [57C](#) of [chapter 59](#) of the general laws. No other authority is granted to CEOs. The new due date, if this option is exercised, applies to all property tax bills and all property taxpayers.

- 2. Do sections 10(i)-(iii) allow the CEO to choose a due date that is earlier than June 1, 2020?**

Yes – the CEO may choose to extend the due date to a date not later than June 1, 2020.

- 3. We have a city form of government, but no mayor. Who is the CEO with authority to exercise the local options contained in sections 10 and 11 of Chapter 53?**

A CEO is defined to “include the mayor in a city and the board of selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.” [G.L. c. 4, § 7, Clause Fifth B](#). Some communities have a town council and town meeting form of government and their charters provide that the town council is the CEO. Other communities have a city form of government, but no mayor (e.g., Barnstable, Cambridge, Watertown). In these communities, local charters will ordinarily determine the CEO. If there is any question regarding the identity of the CEO in a community, local counsel should be consulted.

- 4. Does section 10 allow the CEO to extend the due date of motor vehicle excise bills?**

No – the provisions of sections 10(i)-(iii) apply only to property tax bills issued under [c. 59](#). Motor vehicle excise bills are issued under [c. 60A](#).

## **FAQs Regarding Waiver of Interest and Other Penalty - Section 11**

**SECTION 11.** Notwithstanding [section 57](#), [57A](#) and [57C](#) of [chapter 59 of the General Laws](#), [section 2 of chapter 60A of the General Laws](#) or any other general or special law to the contrary, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, or the governor’s March 10, 2020 declaration of a state of emergency, the chief executive officer of a city or town, as defined in clause Fifth B of [section 7 of chapter 4 of](#)

[the General Laws](#), or the prudential committee or commissioners of a district may waive the payment of interest and other penalty in the event of late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 and made after its respective due date but before June 30, 2020. Notwithstanding the forgoing, a city or town shall not terminate an essential service of a resident, including, but not limited to, water, trash collection or electricity, for nonpayment of taxes or fees with a due date on or after March 10, 2020, made after its respective due date but before June 30, 2020, if the nonpayment resulted from a demonstrated inability to pay due to circumstances related to the outbreak of COVID-19 or the governor's March 10, 2020 declaration of a state of emergency; provided that the inability to pay shall include a demonstrated financial hardship of a resident, which may include, but not be limited to, loss of employment, serious illness of someone within the home or death of someone within the home.

**5. To what bills/charges other than the property tax does the option to waive the payment of interest and other penalty apply? Does it apply to water and sewer bills not added to the tax bill or other local utility bills or charges?**

The first sentence of section 11 contains the local option to waive payment of interest and other penalty and it applies to "any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 and made after its respective due date but before June 30, 2020." (Emphasis added.)

This local option applies to the motor vehicle excise and the property tax. In addition, it applies to "betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax." This phrase is found in the 12<sup>th</sup> paragraph of [G.L. c. 59, § 57C](#). [Section 57C](#) provides that if the "tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to such tax" is not timely paid, it shall accrue interest at the rate of 14% from the due date. The use by the legislature of this same phrase in section 11 indicates its intent that the section 11 waiver apply only to these charges (betterment assessment or apportionment thereof, water rate or annual sewer use or other charge) after they are added to the property tax bill.

For each of the above charges, interest is imposed by statute and a city/town would have no authority to waive interest without legislation. For motor vehicle excises, [G.L. c. 60A, § 2](#) requires 12% interest if unpaid within 30 days. For unpaid property taxes, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax, [G.L. c. 59, §§ 57](#) and [57C](#) require 14% interest. The section 11 option allows a city/town to waive the statutory interest for these charges.

A city or town may also waive its locally imposed interest or penalty on local fees or charges; however, the waiver is not done through section 11. Legislative authority is ordinarily not required to adjust or waive locally imposed due dates or interest charges. If a city or town wishes to pursue the adjustment of locally imposed due dates or interest charges on its local water, trash or other charges (not already

added to a property tax bill), it should consult its local counsel for advice on the procedure.

- 6. Does the city/town need to find a “demonstrated inability to pay ...” to adopt the waiver of interest and other penalty contained in the first sentence of section 11?**

No – As a result of the legislative history and the wording of section 11, it is our opinion that the “demonstrated inability to pay” applies only to the termination of essential services provision contained in the second sentence of section 11. It does not apply to the first sentence of section 11 which contains the waiver of interest and other penalty option.

- 7. Can a city/town exercise the option in the first sentence of section 11 to waive interest/penalties and choose the bills to which it will apply? For example, can a city/town choose not to adopt the local option interest waiver for motor vehicle excise bills, but exercise it for the rest of the listed charges – “tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax”?**

Yes - We think that the use of the word “any” in the legislation permits a city/town to choose from among the listed bills.

- 8. If a city/town exercises the waiver option under section 11, can a city/town exclude certain categories of taxpayers from the waiver? For example, can it exclude personal property taxpayers, or allow the option only for elderly taxpayers?**

It is unclear that the legislation allows this. As a result, we advise that local counsel be consulted if considering this approach.

- 9. If a city/town exercises the option to waive interest, what is the last day for a taxpayer to pay the bill and qualify for the waiver of interest?**

June 29, 2020. The relevant language in the legislation is “*made after its respective due date but before June 30, 2020.*” If the bill is paid on June 30, 2020 or after, it is paid too late for the waiver to apply. Interest will run from the date the bill is due to June 30, 2020 (or the date after June 30, 2020 that it is paid). For example, if a property tax bill’s due date was extended to June 1, 2020 and it is paid on June 30, 2020, interest will run from the due date of June 1, 2020 to June 30, 2020. If the bill is paid July 15, 2020, interest will run from June 1, 2020 to July 15, 2020. If, however, the bill is paid on June 29, 2020, interest will be waived.

10. If a city/town exercises the option to waive interest and a property tax bill is paid after its due date, but on June 29 so that the interest waiver is applied, what is the impact on Appellate Tax Board (ATB) jurisdiction to hear the taxpayer's appeal of the denial of a property tax abatement under [G.L. c. 59, § 64](#)?

Under [G.L. c. 59, § 64](#), to pursue an appeal before the ATB, a taxpayer usually must have paid all or part of the tax before filing the appeal. For personal property tax appeals, one-half of the personal property tax must be paid. For real property tax appeals, when the tax is \$5,000 or less, no payment is required. For a real property tax over \$5,000, all preliminary and actual installments must have been paid on or before their due dates, i.e., without incurring interest. The question is whether interest is "incurred" for purposes of [G.L. c. 59, § 64](#) when a taxpayer pays his tax bill late but before June 30 and the interest is waived under section 11? In other words, will the payment of the tax after the due date but before June 30 prevent the ATB from having jurisdiction over the taxpayer's appeal? This is a question for decision by the ATB, subject to further appeal to the courts.

DISCONTINUING ACCUVOTE ES2000 OPTICAL SCAN TABULATORS  
AND  
IMPLEMENTING USE OF THE  
IMAGECAST® PRECINCT OPTICAL (ICP) TABULATORS

VOTE: To discontinue use of the AccuVote ES2000 Optical Scan Tabulators and to implement use of the ImageCast® Precinct Optical (ICP) Tabulators in all precincts, effective for the September 1, 2020 State Primary and for the all elections thereafter, in accordance with M.G.L. Chapter 54, Section 34.

**Part I** ADMINISTRATION OF THE GOVERNMENT**Title VIII** ELECTIONS**Chapter 54** ELECTIONS**Section 34** USE OF VOTING MACHINES BY CITIES AND TOWNS

Section 34. A city or town may, by vote of a majority of the city council or by vote of a majority of the board of selectmen, at a meeting held at least one hundred and twenty days before the primary, preliminary election or election at which voting machines are to be used, determine upon and purchase, lease, or lease with an option to purchase, one or more voting machines approved as provided in section thirty-two, and order the use thereof at primaries, preliminary elections and elections of state, city or town officers in such city or town; and thereafter at all primaries and elections of state, city or town officers in that city or town, until otherwise ordered by the city council in a city and the selectmen in a town, said machines shall be used at primaries and preliminary elections and for voting for the officers to be elected at such elections and for taking the vote upon questions submitted to the voters. Notice of such determination to use voting machines, or to discontinue the use thereof, shall be sent to the state secretary by the city or town clerk within five days after such determination; provided, however, that no such discontinuance shall take

place later than ninety days prior to a state or presidential primary or state election, nor later than thirty days prior to a city or town primary, preliminary election or election at which it is to become effective.

A city or town may, by vote of a majority of the city council or by vote of a majority of the board of selectmen, at a meeting held not later than one hundred and twenty days prior to a state or presidential primary or state election, and not later than sixty days prior to a municipal primary, preliminary election or election at which an electronic voting system is first to be used, determine upon the use of, and may lease, purchase, or lease with an option to purchase, the marking units or automatic tabulating equipment necessary to any electronic voting system approved for use in the commonwealth in accordance with section thirty-two. Thereafter, at all primaries, preliminary elections and elections held in said city or town, until otherwise ordered by vote of the city council in a city or of the selectmen in a town, said electronic voting system shall be used in those polling places designated by the city council or board of selectmen.

Notice of determination to use an approved electronic voting system, or to discontinue its use, shall be sent to the state secretary by the city or town clerk within five days after such determination; provided, however, that no such discontinuance shall take place later than ninety days prior to a state or presidential primary or state election, nor later than thirty days prior to a city or town primary, preliminary election or election at which it is to become effective; and, provided further, that no such discontinuance shall prevent the state secretary from selecting appropriate voting machines and vote tally systems pursuant to section thirty-two.

Ref: 10266  
10204

AN ORDER APPROPRIATING FROM FREE CASH TO ELECTIONS &  
REGISTRATION – NEW VOTING EQUIPMENT.

ORDERED:

That there be and is hereby appropriated the sum of Seventy Thousand and No Cents (\$70,000.00) from Free Cash to Elections & Registration – New Voting Equipment.

# Order

In City Council

November 18, ..... 2019

Order Passed

November 18, ..... 2019  
10 years, 1 absent.

*Leahly Green* Clerk

Presented to Mayor for approval

November 19, ..... 2019

Approved on November 19, ..... 2019



*Mayor's Signature*

Mayor

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- Internal diverter for simplified ballot sorting
- Patented AuditMark® image technology



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*Dominion has invested in the development of proprietary technology that truly sets its products apart from the competition. Focusing on two key aspects of the electoral process – risk-limiting auditing and voter intent – Dominion's technology improves the transparency and integrity of the election process.*

- **AuditMark® technology:** Each digital ballot image has an AuditMark® appended at the bottom, showing a record of how that ballot was interpreted by the tabulator on Election Day. Why bother purchasing a scanner if it can't tell you what it read?
- **Marginal Mark detection:** This feature makes it possible for voters to clarify their intent when they cast their ballot. Thresholds can be configured to jurisdictional requirements.
- **Complete end-to-end system auditability:** Every action taken on the tabulator and the election management system is recorded in a permanent, unalterable digital audit log.
- **Engineered simplicity:** Dominion's voting systems were designed to be easy-to-use for voters, poll workers and election officials.

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Dominion team members are leaders in the industry in project management services and support for voting system implementations. With nearly 200 professional staff - including over 60 individuals dedicated to Customer Service & Delivery - and over 2,000 years in combined elections experience, Dominion has the expertise to deliver on all your election needs.

### EXPERIENCE

Dominion staff leverage their broad implementation experience with Dominion, Sequoia as well as Premier/Diebold product lines to deliver the best professional services in the industry. This cornerstone in project management has been the key to success of voting system implementations ranging in scale from large statewide projects to small scale election events. As a Dominion customer, you know you can rely on Dominion's state-of-the-art technology, vast engineering resources and expertise - all of which are mobilized to ensure that your needs, and those of your voters, are fully met.



While an accessible voting session is on-going with a voter using an audio ballot and ATI to vote, another voter is casting their ballot



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& SIMPLE**



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- Quality Control
- Risk Management
- Resource Management
- Equipment Procurement & Deployment
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- Training Management

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- 2,500 units used nationally in *Mongolia*
- Over 80,000 units deployed in the *Philippines*
- Thousands of units used in municipal and provincial elections in *Canada*



### SECURE

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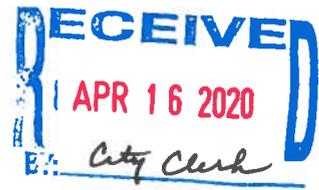
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10267



April 10, 2020

Ms. Elizabeth Kazinskas, President  
Gardner City Council  
95 Pleasant Street, Room 121  
Gardner, MA 01440

Dear Councillor Kazinskas (Lizzy),

I wanted to take a moment to reach out and make sure that you and other members of the City Council and City Hall staff are aware of the resources being offered by the Chamber of Commerce to our greater community at this time to assist our region in navigating the COVID-19 crisis.

The Greater Gardner Chamber has played a role in community and economic development in our region for nearly a century. We are proud to have a good working relationship with leaders in all seven communities we serve, and especially the strong working relationship we share with the City of Gardner. Now more than ever we hope to be a resource to the community in any way that we can.

With our focus always on keeping our community stronger by working together, and with that mission in mind, we have been working diligently for the past three weeks to flex our operations and put our complete efforts into communicating key resources and information to the greater community.

I urge anyone who is in need of information or assistance to utilize the Chamber's website as a resource: [gardnerma.com](http://gardnerma.com). Although we are working remotely, we continue to operate fully, and all telephone calls to the Chamber's main line are routed automatically to my cell. I've received calls from Chamber members and non-members alike.

At the onset of the stay at home advisory and closing of non-essential businesses, we immediately began reaching out to community leaders in our region to offer our assistance. We are part of a strong network of Chamber's across the state and work with local, state and federal officials and agencies.

GGCC has built a comprehensive resource page on our site: *Resources for Business Owners and Managers During COVID-19*. Included are important links to information regarding funding/lending sources and options, local SBA-approved lending institutions, tax relief, and unemployment and PFMLA updates related to the FFCRA and the CARES Act.

We've created separate pages focused on *Helping Your Community: Non-Profits in Need* that we are adding to as we receive requests, and another dedicated to *Updated Chamber Member Operations* to make known the changing times and methods of operation of many businesses in our region. Most all of this information is being shared through our social media outlets as well.

We have organized several virtual programs to distribute critical information. These have included:

**Know Your Legal Responsibilities to Employees as a Result of the COVID-19 Health Crisis**

March 19, featured Attorney John Flick of Flick Law Group, Chair, Chamber Legislative Affairs Committee

**Heywood Healthcare COVID-19 Informational Teleconference**

March 23, featured Win Brown, CEO; Andrew Patterson, Executive Director; and Helen Heneghan, Chief Medical Officer

**Navigating the Lending Landscape**

April 2, featured GFA Federal Credit Union, as an SBA-Approved Lender: Joan Moran, SVP, Chief Lending Officer, and Joshua Brier, EVP, Chief Operations Officer

**PFMLA Regulations Update related to FFCRA and the CARES Act**

April 9, featured Attorney John Flick of Flick Law Group, Chair, Chamber Legislative Affairs Committee

**COVID-19 Virtual Forum with State Legislators**

April 10, featured State Representative Jonathan Zlotnik, and State Senator Anne Gobi and was held in partnership with the North Quabbin Chamber of Commerce

We have ongoing programs in the pipeline and will promote them out as details become finalized. Summaries of most of these presentations have been posted to our website as a resource for anyone in our community.

Please know that we are a partner to you and other City officials as we navigate this crisis. Now, more than ever, I truly believe that ***together we're stronger***. Please reach out to me at any time.

Best regards,



Carol Jacobson  
President and CEO

Questions contact – Kim Tavallaimola 508-860-6448

**PETITION FOR POLE AND WIRE LOCATIONS**

North Andover, Massachusetts

10260  
RECEIVED  
2020 MAR 30 PM 12:10  
CITY CLERK'S OFFICE  
GARDNER, MA

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.

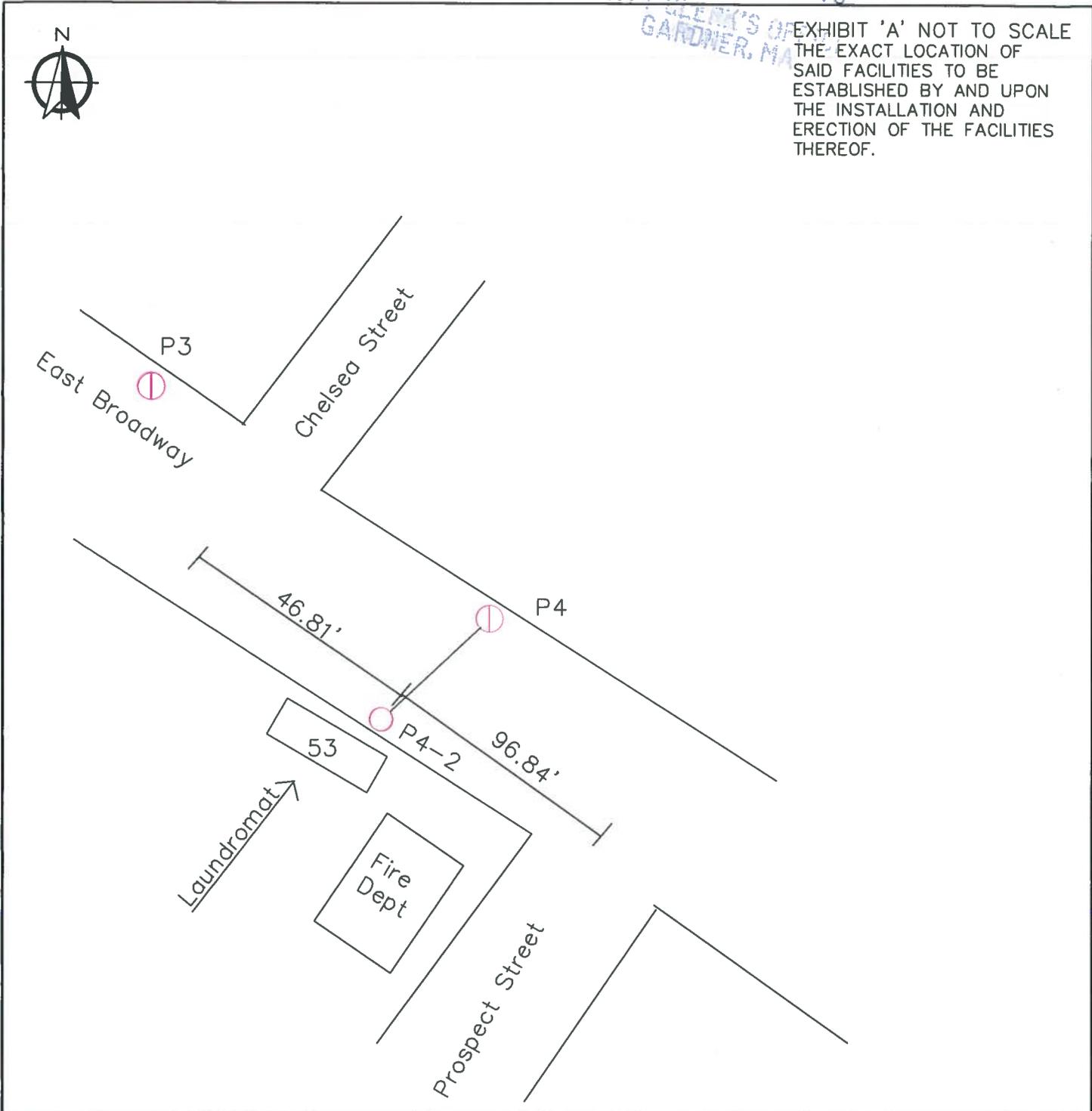
Massachusetts Electric Company d/b/a National Grid  
BY Pat Cody  
Engineering Department

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

Date: 03/26/2020

Designer: Kim Tav

W/R: 27407276

53 East Broadway  
New pole for business Gardner, MA



# 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:

| <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.



## CITY OF GARDNER POLICE DEPARTMENT

200 Main Street, Suite 214  
Gardner, Massachusetts 01440

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

10254



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

March 10<sup>th</sup>, 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 14<sup>th</sup>, 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.  
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  
City Clerk

Enclosures (2)

10252



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.

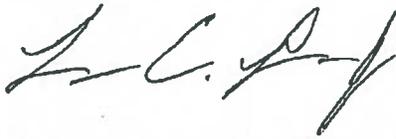
In harmony with the previously approved project and the City-wide growth and development policies, the applicant proposes to redevelop this parcel and construct three multi-family residential buildings, totaling 123 units.

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 or comments, please feel free to contact our office.

Sincerely,



Lar Greene, RLA

P:\MEI\223-Olson\City Council\Docs\Development I Overlay Requestletter.docx



10250

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.

# 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  
Acting Mayor

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 oversight.

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     |

10251

| 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             |  |
|       |     |                |       |      |             |             | <b>ESTIMATE FY20 FIREFIGHTS RETO PAY</b> |         |                      |  |
|       |     |                |       |      |             |             | <b>TOTAL</b>                             |         | <b>\$ 113,159.74</b> |  |

# 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 OF GARDNER LAW DEPARTMENT

John M. Flick  
City Solicitor

Priya Gandbhir  
Assistant City Solicitor

March 2, 2020



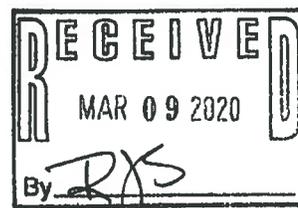
Writer's Email:

144 Central Street, Suite 201  
Gardner, MA 01440

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

## 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.
- 09/17/2019 – 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 in 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.

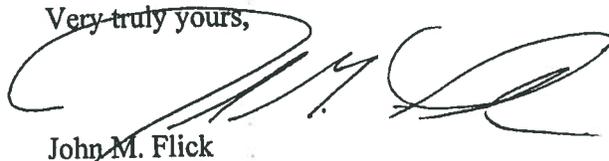
When considering the fact that the final terms of the CBA were negotiated during a protracted mediation process with the Joint Labor Management Commission, involved Mayor Hawke, and ultimately resulted in a signed MOA during Mayor Hawke's term of office, supports a conclusion that Mayor Hawke would have 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,

A handwritten signature in black ink, appearing to read "John M. Flick", written over a white background.

John M. Flick

Cc: Debra Pond, Human Resources

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:

|                                                  |             | <u>Money<br/>Order</u> | <u>Balance</u> |
|--------------------------------------------------|-------------|------------------------|----------------|
| 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

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  
City Clerk

Enclosures (2)

10252



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 or comments, please feel free to contact our office.

Sincerely,



Lar Greene, RLA

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