

**REGULAR MEETING OF SEPTEMBER 3, 2019**

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Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Tuesday evening, September 3, 2019.

**CALL TO ORDER**

Council President Scott Joseph Graves called the meeting to order at 7:30 o'clock p.m.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Eleven (11) Councillors were present including President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh.

**OPENING PRAYER**

President Graves led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

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

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Graves announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

**READING & ACCEPTANCE OF MINUTES**

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to waive reading and to accept the Minutes of the August 5, 2019 Regular Meeting and the August 12, 2019 Special Meeting, as printed.

**PUBLIC HEARINGS****#10149**

President Graves opened the Public Hearing on a Petition by NATIONAL GRID for permission to locate poles, wires and fixtures, including the necessary sustaining and protecting fixtures along and across the following public way:

CITY HALL AVENUE - Permission to construct a line of underground electric conduits on City Hall Avenue beginning at a point approximately 50' east of the centerline of Pleasant Street for approximately 35' in an easterly direction.

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

Kim Tavallaimola, representing National Grid, testified that National Grid proposes to remove an old vault and a street light meter, as well as to relocate the feed.

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

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

There being none, President Graves closed the Hearing.

**#10150**

President Graves opened the Public Hearing on a Petition by NATIONAL GRID and Verizon New England, Inc. for permission to locate poles, wires and fixtures, including the necessary sustaining and protecting fixtures along and across the following public way:

CLARK STREET - Permission to install four (4) JO poles on Clark Street beginning at a point approximately 200' northwest of the centerline of the intersection of Century Way and Clark Street and continuing approximately 850' in a northwesterly direction.

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

Kim Tavallaimola, representing National Grid, testified that National Grid proposes to install additional poles to service a solar farm at 538 Clark Street.

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

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

There being none, President Graves closed the Hearing.

**#10151**

President Graves opened the Public Hearing on a Petition by NATIONAL GRID and Verizon New England, Inc. for permission to locate poles, wires and fixtures, including the necessary sustaining and protecting fixtures along and across the following public way:

CLARK STREET - Permission to install five (5) JO poles on Clark Street beginning at a point approximately 200' northwest of the centerline of the intersection of Leo Drive and Clark Street and continuing approximately 1200' in a northwesterly direction.

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

Kim Tavallaimola, representing National Grid, testified that National Grid proposes to install additional poles to service a solar farm at 538 Clark Street.



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

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

There being none, President Graves closed the Hearing.

**COMMUNICATIONS FROM THE MAYOR**

**APPOINTMENTS**

**#10156**

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to confirm the following Appointment received from the Mayor:

**NANCY BINDER** to the position of **MEMBER, BANDSTAND COMMITTEE**, for term expiring August 14, 2022.

Worcester, ss.

September 3, 2019

Then personally appeared **NANCY BINDER** and made oath that she would faithfully and impartially perform the duties of **MEMBER, BANDSTAND COMMITTEE**, according to law and the best of her abilities.

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

**#10157**

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to confirm the following Appointment received from the Mayor:

**EDWARD VIPOND** to the position of **MEMBER, BANDSTAND COMMITTEE**, for term expiring August 14, 2022.

Worcester, ss.

September 3, 2019

Then personally appeared **EDWARD VIPOND** and made oath that he would faithfully and impartially perform the duties of **MEMBER, BANDSTAND COMMITTEE**, according to law and the best of his abilities.

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



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#10158

On a motion by Councillor James Walsh and seconded by Councillor Ronald Cormier, on recommendation of the Finance Committee, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to confirm the following Appointment received from the Mayor:

SANDRA BARTON to the position of MEMBER, COUNCIL ON AGING, for term expiring August 21, 2022.

Worcester, ss.

September 4, 2019

Then personally appeared SANDRA BARTON and made oath that she would faithfully and impartially perform the duties of MEMBER, COUNCIL ON AGING, according to law and the best of her abilities.

Before me,  
/s/ John A. Olivari, Assistant City Clerk

ORDINANCES

#10159

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the Committee voted to make no recommendation, but to move the Ordinance to First Printing for discussion purposes.

Councillor Ronald Cormier then moved to Order the following Ordinance to First Printing:

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

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 striking from Compensation Schedule "Exhibit E", the following:

<u>Position</u>	<u>Grade</u>	<u>Annual</u>	<u>Weekly</u>
City Treasurer/Collector	G-10	\$ 84,118.88	
MGL c. 32, §20(6)		\$ 300.00	
Total Compensation:		\$ 84,418.88	\$1,623.44 (Effective 7/1/2019)

And inserting in place thereof, the following:

<u>Position</u>	<u>Grade</u>	<u>Annual</u>	<u>Weekly</u>
City Treasurer/Collector	G-10	\$ 84,118.88	
MGL c. 32, §20(6)		\$ 300.00	
Total Compensation:		\$ 84,418.88	\$1,623.44 (Effective 7/1/2019)

City Treasurer/Collector G-10 \$ 82,708.88



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MGL c. 32, §20(6)	\$ <u>300.00</u>	
Total Compensation:	\$ 83,008.88	\$1,596.32 ( <i>Effective 8/16/2019</i> )

Section 2. Effective date.

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

Councillor James Walsh seconded the motion “for discussion purposes.”

On the motion, Councillor Ronald Cormier expressed his opposition to the Amendment, saying that the City Council has the responsibility to appoint the City Treasurer/Collector and that it should not change the salary after the person has been appointed. He added that the new Treasurer is a longtime employee of the City.

Councillor Christine Johnson noted that the new Treasurer will receive an increase of \$4,000 over her prior position as Purchasing Director and that the proposed adjustment is only \$1,400 less than the salary of the former Treasurer. She added that she believes that the Mayor’s offer is fair since the new Treasurer does not have any prior experience in the position; therefore, she supports the amendment.

Councillor Edward Gravel remarked that the issue isn’t about the \$1,400 difference, but that the Salary for the position is already set by Ordinance. He said that it befuddles him that there wasn’t a proposal to change the salary months ago when the former Treasurer announced her retirement. He said that he would not support the amendment, citing the new Treasurer’s wealth of knowledge and her dedicated service to the City since 2003.

Councillor James Walsh informed the Council that when the Mayor met with the Finance Committee, he said that he would take the opportunity to meet with the intended appointee to negotiate a salary, but that any change would require an Ordinance amendment. On the merits of the proposed amendment, Councillor Walsh said that he would oppose the reduction in pay.

Continuing, Councillor Walsh stated that for at least five years, he has asked the Mayor to present a Step System for compensation and, if it had been in place, then there would not be a need to be having the current pay discussion. Over time, the Mayor told the Finance Committee that he was working on it, then that it was on his desk, then it’s too hard, and finally, that he is not going to do it. He noted that when the City Council met with the Superintendent of Schools during budget discussions, when questioned, the Superintendent indicated that the Step System is effective and works very well and that he supports it. Councillor Walsh added that the only adjustments that have been made in recent memory have been cost-of-living adjustments and that no [performance] evaluations have been conducted to determine salaries based on evaluations.



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Continuing, Councillor Walsh stated that these positions are subject to longevity pay, a separate [Ordinance] provision, where employees are eligible after 5 years for \$150 plus \$30 per year thereafter to a cap. He noted that there are significant inconsistencies in how positions are being filled. Citing the hiring of the current City Auditor, Councillor Walsh noted that he was paid the salary that was dictated by the Ordinance, even though he had no prior municipal auditor experience. In addition, he noted that when former Building Commissioner Jeff Cooke was hired in August, 2015, there was no attempt to reduce the compensation through an Ordinance amendment and, when current Building Commissioner Roland Jean was hired, he was paid a salary less than what the Ordinance dictated, and also that there was no effort to amend the Ordinance to reflect his reduced salary.

Citing the recent hiring of the Chief of Police, Councillor Walsh stated that when he was appointed in December, 2018, Chief Braks started at the same pay as former Chief Erickson, who was in the position for 19 years and that there was no proposal to reduce his salary. The same happened when the new Deputy Chief of Police was hired.

Continuing, Councillor Walsh noted the following:

- When City Engineer Chris Coughlin was hired, the compensation was changed by Ordinance because he did not possess a Professional Engineer certification.
- When former Public Health Director Jennifer Susen-Roy was hired, the Ordinance was amended to reflect a step increase when she acquired her certifications, as is the case with the current Public Health Director.
- When Jennifer Dymek was appointed as Purchasing Agent, she was hired at the same rate of pay as her predecessor, May Delaney.
- When the Council on Aging Director was hired, he received the same rate of pay as his predecessor.

Continuing his remarks, Councillor Walsh questioned the reason why Jen Dymek is being asked to take a reduction in pay while others were not required to take a cut in their pay. "It is wrong to reduce the salary, since there is money in the budget," and added that the Mayor does not provide an offer letter to everyone. "Jen has already been elected to the position and that she accepted the position wholeheartedly. It is about treating her fairly," he said.

Councillor Christine Johnson stated that at the last Council meeting, Councillor Kazinskas asked about the salary and that it was up to the Mayor to negotiate a salary. She added that the City Engineer did not have professional certification and that Ms. Dymek lacked certification as a Treasurer and Collector. Commenting on Councillor Gravel's remark, she stated that no one knew months ago who would be in the position.

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Councillor James Boone stated that the Mayor didn't know who would be chosen and, with regard to the Step System in the School Department, Administrators do not have steps. He added that he supports the Mayor's proposed reduction.

Councillor Edward Gravel stated that it amazed him that the discussion is over saving \$1,400, while the Purchasing Agent's position is vacant and will be for weeks, thereby achieving cost savings.

Councillor Nathan Boudreau stated that he supports Councillor Walsh, that there should be a Step System in place, which none has been proposed over the past 5 years, so there is no avenue to hire at a step.

Councillor Walsh stated that the information that he provided are facts – that 14 positions were filled since mid-2015, and that 11 were men and 3 were women. Of that number, he said that 10 of the 11 men received compensation as outlined in the Ordinance and of the three women, one took a reduction in pay and another is being asked to take a reduction.

Councillor Christine Johnson said that she took offense to Councillor Walsh's comments, that she is a woman, and that the salary matched their (other appointees) expertise and accreditation. She added that it isn't about the \$1,400, but about equal experience of the previous 19 years.

Councillor Boone remarked that he was surprised that the Council took up the vote at the last meeting.

President Graves stated that the Mayor said that he spoke only with him about the effective [starting] date of the new Treasurer/Collector.

Councillor Edward Gravel stated, "In this country and around the world, there is a great disparity in salaries between men and women. Men get paid a hell of a lot more than women," adding, "it is sad to say about disparity in wages."

Councillor Karen Hardern remarked that there has been a lot said about the issue, but that it comes down to experience, that Ms. Dymek has never been a collector, and that \$1,400 is not a lot of money. She said that she would support the amendment.

Councillor Elizabeth Kazinskas stated that she did not think that it is about man or woman and that "it doesn't work that way in City Hall" and that the Purchasing Agent's position still has to be filled.

Councillor Craig Cormier commented that the whole scenario is unique and very unorthodox, adding that he would not support the amendment.



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Councillor James Walsh stated that there was a suggestion that was made that Ms. Dymek is not a certified Treasurer/Collector, and then he noted that the City Auditor has been in his position over three years and that he still hasn't obtained his certification, but that there was no reduction to his pay. Continuing, he stated that there have been appointees with no prior experience in their positions, but there was no suggestion that they take a pay cut. He again cited the new Chief of Police who had no prior Chief's experience, and had been a Deputy Chief of Police for only 6 months prior, and then replaced a Chief with 19 years of experience. He added that he finds it troubling that the reason given for cutting the pay "is experience."

Councillor Edward Gravel questioned whether the Finance Committee discussed with Ms. Dymek a timeline for certification, since it was reported that the City Auditor hasn't yet obtained his.

Councillor Ronald Cormier responded, saying that DOR only offers the class once each year for three days in August, which takes three consecutive years in order to become certified.

Councillor Christine Johnson stated that the City Auditor had years of experience in auditing in the private sector.

On the motion, on call of the roll, six (6) yeas, President Scott Joseph Graves and Councillors James Boone, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas; five (5) nays, Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, and James Walsh, it was voted to Order the following Ordinance to First Printing:

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

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 striking from Compensation Schedule "Exhibit E", the following:

<u>Position</u>	<u>Grade</u>	<u>Annual</u>	<u>Weekly</u>
City Treasurer/Collector	G-10	\$ 84,118.88	
	MGL c. 32, §20(6)	<u>\$ 300.00</u>	
Total Compensation:		\$ 84,418.88	\$1,623.44 (Effective 7/1/2019)

And inserting in place thereof, the following:

<u>Position</u>	<u>Grade</u>	<u>Annual</u>	<u>Weekly</u>
City Treasurer/Collector	G-10	\$ 84,118.88	
	MGL c. 32, §20(6)	<u>\$ 300.00</u>	
Total Compensation:		\$ 84,418.88	\$1,623.44 (Effective 7/1/2019)
City Treasurer/Collector	G-10	\$ 82,708.88	
	MGL c. 32, §20(6)	<u>\$ 300.00</u>	
Total Compensation:		\$ 83,008.88	\$1,596.32 (Effective 8/16/2019)



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Section 2. Effective date.

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

*FIRST PRINTING – SEPTEMBER 9, 2019*

**#10160**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Committee voted favorably to recommend that the Ordinance be ordered to First Printing, adding that the Amendment is a “sufficiently different concept.”

Councillor Walsh then moved to Order the following Ordinance to First Printing:

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

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 B and inserting in place thereof, the following:

**Exhibit B**  
**City Council**

The salary of each member of the city council shall be seven thousand three hundred twenty six dollars per year. The salary of the City Council President shall be ten thousand seven hundred and seven dollars per year.

Effective January 1, 2020 and on an annual basis thereafter, a percentage increase of the councilor's salary will be established consistent with the annual consumer price index (CPI-U) of the previous calendar year (utilizing the percent change in average to average), with a minimum of no increase and a maximum increase of five per cent.

Section 2. Effective date.

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

Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Ronald Cormier informed the Council that the City Charter empowers the City Council to establish a salary for its members and that the Committee [by Ordinance] is obligated to review the salaries every two years. He said that several years ago, it was proposed to tie raises to the Consumer Price Index (CPI), which would “depoliticize the issue” which [the method] could again be changed by the Council in the future. He said that the goal should be to increase compensation in small, incremental steps and added that any

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increases voted this year would not affect the current Council and Mayor, as it would not take effect until next year.

Councillor James Johnson stated that he would not support the Ordinance establishing pay increases tied to the CPI because the Council would be abdicating its responsibility.

Councillor Nathan Boudreau stated that he “supported these raises before,” and that “the [increase] might sweeten the pot.” He said that the City’s Founding Fathers balanced the [Council’s] duties for a reason and indexing compensation is not what they or our Charter directed.

Councillor Christine Johnson expressed her disagreement with indexing and that the Council is charged with watching out for the taxpayers’ dollars and that Councillors should not be afraid to take a vote. She added that small increments may be made to get people to run for office and to keep them involved in government. “We are hired to make laws,” she said.

Councillor James Boone expressed agreement with Councillor Ronald Cormier, stressing that “indexing keeps up,” and that all other salaries are negotiated.

Councillor Elizabeth Kazinskas stated that she cannot support raises tied to the CPI.

Councillor Craig Cormier expressed support for the Ordinance, noting that it’s a new concept. He added that future Councils could change the Ordinance, as they have the power to do so.

Councillor Nathan Boudreau stated that Leominster is one community in the the region where most positions are severely underpaid, but that he loves the City of Leominster and that its Mayor knows what he’s doing.

Councillor Karen Hardern agreed that the Ordinance would remove politicization in the future, that she would hate to see the Council [pay] fall back, but that she can see both sides of the issue.

Councillor Christine Johnson noted that the City Council can change an Ordinance whenever it wants to, which takes two votes.

Councillor Edward Gravel stated that the subject “is a political football” and that he does not support the Ordinance changes. Until things are positive and happy, he opposes “giving raises away automatically.”

On call of the roll, four (4) yeas, President Scott Joseph Graves and Councillors Craig Cormier, Ronald Cormier, and James Walsh; seven (7) nays, Councillors Nathan Boudreau, James Boone, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, and Elizabeth Kazinskas, the Order to First Printing was not adopted.

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**#10161**

Councillor Walsh reported that the Finance Committee voted to recommend the Ordinance. He then moved to Order the following Ordinance to First Printing:

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**

The salary of the mayor shall be ninety two thousand one hundred and ninety six dollars (\$92,196) per year, and shall receive no other compensation from the city for any official duty.

Effective January 1, 2020 and on an annual basis thereafter, a percentage increase of the mayoral salary will be established consistent with the annual consumer price index (CPI-U) of the previous calendar year (utilizing the percent change in average to average), with a minimum of no increase and a maximum increase of five per cent.

Section 2. Effective date.

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

Councillor Ronald Cormier seconded the motion.

On the motion, Councillor Nathan Boudreau said, "Our Mayor is one of the finest professionals that I have ever known."

On call of the roll, three (3) yeas, President Scott Joseph Graves and Councillors Craig Cormier and Ronald Cormier; eight (8) nays, Councillors Nathan Boudreau, James Boone, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, the Order to First Printing was not adopted.

**PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.**

**#10162**

Reporting for the Finance Committee, Councillor James Walsh informed the Council that the Resolution authorizes the City to seek grants for the design and development of Bailey Brook Park, which was acquired last year. The State's share would be 70%, while the City would be responsible for 30%, which is \$52,000 for the design and \$124,000 for the development of the park. He added that the Mayor reported that he would provide funding for the City's share if he is able to do so.




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

A RESOLUTION TO FILE AND ACCEPT GRANTS WITH AND FROM  
THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF  
ENERGY AND ENVIRONMENTAL AFFAIRS  
FOR THE PARKLAND ACQUISITIONS AND RENOVATIONS  
FOR COMMUNITIES (PARC) PROGRAM  
FOR DEVELOPMENT OF BAILEY BROOK PARK

- Whereas: The land recently acquired for the purpose of developing a community park in West Gardner will by and far be a community-wide asset and that the preservation and improvements to this facility are a City priority as evidenced in the most recent Open Space and Recreation Plan; and
- Whereas: The land is dedicated to park and recreation purposes under M.G.L. Chapter 45, Section 3; and
- Whereas: The design and development of a park will provide substantial public benefits and greatly enhance this land and with improved site access, recreational amenities, path systems, parking, and universal access, etc.; and
- Whereas: The main focus of the project is to fund the design of a multipurpose recreational park, and, to conduct preliminary site work and land grading to provide necessary access to the park, and, for the construction of walking trails and a universally accessible trail which will be components of the park design which will include recreational facilities and amenities of which the overall cost and fiscal budget constraints prevented the City from proceeding forward with implementation as one project; and
- Whereas: The project was instead viewed as a series of phases, to be implemented over time, by priority as fiscal resources were available, with the intention of securing grant funding, when and if available, to assist in this effort; and
- Whereas: The Executive Office of Energy and Environmental Affairs (EEA) is offering reimbursable grants to cities and towns to support the preservation and restoration of urban parks through the Parkland Acquisitions and Renovations for Communities (PARC) grant program (301 CMR 5.00); and
- Whereas: Phase I of the Bailey Brook Park Design & Development Project will cost a total of up to \$589,000 (Five Hundred and Eighty Nine Thousand Dollars) of which \$400,000 (Four Hundred Thousand Dollars) has been requested and, if awarded, will be reimbursable through the PARC grant program and of which \$175,000 (One Hundred and Seventy Five Thousand Dollars) will be allocated in FY20 toward the design of the Park, and of which \$414,000 (Four Hundred and Fourteen Thousand Dollars) will be allocated in FY21 toward the cost of site clearing and grading, construction of access driveways, and development of a 1-mile loop trail and accessible walking trail; and




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Whereas: The Mayor of the City of Gardner will accept grant funds under the PARC grant program (301 CMR 5.00) and the City of Gardner will borrow, appropriate and expend up to Five Hundred and Eighty Nine Thousand and 00/100 Dollars (\$589,000) for the Design & Phase I Development of Bailey Brook Park to be managed and maintained pursuant to M.G.L. c. 45, §3, and to be held and managed by the City Public Works Department, as open space parkland under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, under their duty and responsibility to the care and custody of City parks and playgrounds.

NOW, THEREFORE, BE IT RESOLVED

1. That the Mayor, as the Chief Executive Officer of the City, be and is hereby authorized to file and accept grants from the Executive Office of Energy and Environmental Affairs; and
2. That the Mayor be and is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Department of Community Development and Planning; and
3. That this resolution shall take effect upon passage.

Presented to Mayor for Approval – September 5, 2019

Executive Action Pending on September 12, 2019

### #10163

On a motion by Councillor James Johnson and seconded by Councillor Karen Hardern, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to refer to the Public Safety Committee for study and report an *Application by R&R Motors, 7 Donlan Street, for a Permit to Amend the License to Buy and Sell Second Hand Motor Vehicles, Class 2, by adding a Second License Holder.*

### #10164

On a motion by Councillor Christine Johnson and seconded by Councillor Nathan Boudreau, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to refer the following Ordinance to the Public Welfare Committee for study and report; to the Planning Board for report and recommendation; and, to schedule a Joint Public Hearing:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO CHANGE THE CLASSIFICATIONS OF PARCELS OF LAND LOCATED WITHIN THE DOWNTOWN URBAN RENEWAL AREA AND PARCELS BORDERING THE AREA TO THE SOUTH OF ROUTE 2.

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



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Section 1. Chapter 675 is hereby amended to change the classifications of parcels of land described as follows:

PARCEL ID	CLASSIFICATION
M27-40-26	C1
R27-21-37	C1
R27-21-04	C1
R27-21-37	C1
R22-01-05	C1
M22-05-44A	C1
R22-06-02	C1
R27-21-35	GR3
R27-21-33	GR3
R27-21-05	GR3
R27-21-32	GR3
R22-01-03	GR3
R22-01-04	GR3
R-22-01-34	GR3
M22-10-32	C1
M22-10-01	C1
M22-15-57	C1
M22-15-83	C2

PARCEL ID	CLASSIFICATION
M22-15-74	C2
M22-15-73	C2
M22-15-72	C2
M22-15-70	C2
M22-15-43	C2
R22-16-41	C2
R22-16-44	C2
R22-16-09	C2
R22-21-10	C2
R22-21-08	C2
R22-21-19	C2
R22-21-18	C2
R22-02-01	I1
R17-01-16	C2
R17-01-15	C2
R17-01-13	C2
R17-01-14	C2

Section 2. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.

**#10165**

On a motion by Councillor Nathan Boudreau and seconded by Councillor James Boone, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to refer to the Public Service Committee for study and report and to schedule a Public Hearing in the matter of the *Petition by National Grid for permission to construct 1100 feet of conduit starting at 370 Park Street and heading north to Pole 1 Clark Street.*

**REPORTS OF STANDING COMMITTEES**

**PUBLIC SERVICE COMMITTEE**

**#10148**

There being no objections, the Public Service Committee was granted more time to report on *A Petition to Lay out James Street Extension as a Public Way*, as follows:




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 REGULAR MEETING OF SEPTEMBER 3, 2019
 

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## LAYOUT OF JAMES STREET EXTENSION

CITY OF GARDNER

In City Council

**WHEREAS**, in the opinion of the City Council of the City of Gardner, common convenience and necessity require that JAMES STREET EXTENSION should be laid out as a public street or way of the said City, from JAMES STREET easterly for a distance of 212 feet, more or less, all as more particularly described, and for that purpose it is necessary to take the parcel of land hereinafter described, it is therefore

**ORDERED** that JAMES STREET EXTENSION be and it is hereby laid out and established as a public street or way of the said City of Gardner according to the plan entitled "Street Acceptance Plan Prepared for an Extension of James Street", which plan is made a part hereof, and it is further

**ORDERED** that the following described parcel of land with the trees thereon and structures affixed thereto, be and the same is hereby taken in fee for said public street or way:

**BEGINNING** at a point on the northeasterly corner of the 1895 Heywood Street Layout (James Street), 33.75 feet southeast from the iron pipe located on said street layout,

**THENCE:** S.84° 15' 01"E., sixty six and 62/100 feet (66.62) to a point;

**THENCE:** S.86° 48' 53"E., one hundred and fifty and 00/100 feet (150.00') to a point;

**THENCE:** S.06° 45' 36"W., thirty three and 43/100 feet (33.43') to a point;

**THENCE:** S.87° 13' 00"W., eighty and 00/100 feet (80.00') to a point;

**THENCE:** N.89° 13' 12"W., one hundred and thirty one and 74/100 feet (131.74') to a point;

**THENCE:** N.00° 33' 01"W., fifty and 30/100 feet (50.30') to the point of beginning;

The parcel, owner, and area of the above described taking, is as follows:

The City of Gardner – 9,042.57 square feet

The City Council having considered the question of damages sustained by persons or corporations in their property are of the opinion that no damages have been sustained and therefore award no damages.

**#10149**

There being no objections, the Public Service Committee was granted more time to report on a *Petition by National Grid for permission to construct a line of underground electric conduits on City Hall Avenue beginning at a point approximately 50' east of the centerline of Pleasant Street for approximately 35' in an easterly direction.*



## REGULAR MEETING OF SEPTEMBER 3, 2019

**#10150**

There being no objections, the Public Service Committee was granted more time to report on a *Petition by National Grid and Verizon New England, Inc. for permission to install four (4) JO poles on Clark Street beginning at a point approximately 200' northwest of the centerline of the intersection of Century Way and Clark Street and continuing approximately 850' in a northwesterly direction.*

**#10151**

There being no objections, the Public Service Committee was granted more time to report on a *Petition by National Grid and Verizon New England, Inc. for permission to install five (5) JO poles on Clark Street beginning at a point approximately 200' northwest of the centerline of the intersection of Leo Drive and Clark Street and continuing approximately 1200' in a northwesterly direction.*

**PUBLIC WELFARE COMMITTEE****#10090**

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

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO CHANGE VARIOUS PROVISIONS RELATING TO MARIJUANA ESTABLISHMENTS.

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

Section 1. Chapter 675-1070 Marijuana Establishments, is hereby amended by deleting and repealing Subsection C (3) (a) in its entirety.

Section 2. Subsection C (9) (c) of Chapter 675-1070 Marijuana Establishments, is hereby amended by deleting the words "shall not exceed the number of registered medical marijuana treatment centers in Gardner engaged in the same type of activity and".

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

In City Council – April 16, 2019

Ordered Printed – August 5, 2019

First Printing – August 9, 2019

Ordinance Passed – September 3, 2019

Presented to Mayor for Approval – September 5, 2019

Executive Action Pending on September 12, 2019





REGULAR MEETING OF SEPTEMBER 3, 2019

UNFINISHED BUSINESS

**#10148**

President Graves announced that the Planning Board submitted a letter to the City Council recommending that James Street Extension be laid out as a Public Way and that he would schedule a Public Hearing.

**#10152**

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

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 171 THEREOF, ENTITLED "PERSONNEL" TO CHANGE COMPENSATION SCHEDULE EXHIBITS C AND E.

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 striking from Compensation Schedule "Exhibit C", the following:

<u>Position</u>	<u>Annual Stipend</u>
Retirement Board Member [MGL c. 32, §20(6)]	\$ 3,000.00

And inserting in place thereof, the following:

<u>Position</u>	<u>Annual Stipend</u>
Retirement Board Member [MGL c. 32, §20(6)]	\$ 3,500.00 <i>(Effective 7/1/2019)</i>

Section 2. Section 171-68 of Chapter 171, Personnel, of the Code of the City of Gardner is hereby amended by striking from Compensation Schedule "Exhibit E", the following:

<u>Position</u>	<u>Grade</u>	<u>Annual</u>	<u>Weekly</u>
City Treasurer/Collector	G-10	\$ 84,118.88	
	MGL c. 32, §20(6)	\$ 300.00	
	Total Compensation:	\$ 84,418.88	\$1,623.44

And inserting in place thereof, the following:

<u>Position</u>	<u>Grade</u>	<u>Annual</u>	<u>Weekly</u>
City Treasurer/Collector	G-10	\$ 84,118.88	
	MGL c. 32, §20(6)	\$ 600.00	
	Total Compensation:	\$ 84,718.88	\$1,629.21 <i>(Effective 7/1/2019)</i>

REGULAR MEETING OF SEPTEMBER 3, 2019

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Section 3. Effective date.

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

In City Council – August 5, 2019

Ordered Printed – August 5, 2019

First Printing – August 9, 2019

Ordinance Passed – September 3, 2019

Presented to Mayor for Approval – September 5, 2019

Executive Action Pending on September 12, 2019

**NEW BUSINESS**

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

**#10159**

Council President Graves recognized Mayor Hawke who wished to address the Council concerning Calendar No. 10159, AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 171 THEREOF, ENTITLED “PERSONNEL” TO CHANGE COMPENSATION SCHEDULE “EXHIBIT E” (City Treasurer/Collector of Taxes compensation).

The Mayor stated, “Because it is said does not make it true,” adding, “Something was said here – a member intimated gender bias.”

Councillor Walsh objected, calling for a point of order.

Councillor Edward Gravel also objected and called for a point of order.

President Graves permitted Councillor Walsh to state his point of order.

Councillor Walsh stated that the matter had already been addressed by the City Council and voted on. He added that he believed that the Mayor “was out-of-order.”

Councillor Gravel concurred with Councillor Walsh’s point of order.

President Graves informed the Council that he would allow the Mayor to address the Council, which is permitted under the City Charter.

Councillor Walsh then moved to adjourn the meeting. Councillor Edward Gravel seconded the motion.

On the question, on viva voce vote, the motion to adjourn was not adopted.



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**REGULAR MEETING OF SEPTEMBER 3, 2019**

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President Graves stated that it is very important for the Mayor to speak to the Council so that he can defend himself, since suggestions were made about indecorum on the part of his administration.

The Mayor stated that Ms. Dymek was hired 16 years ago, that she does a great job, but the matter is not about her. He cited the following:

- Golf Superintendent William Frank was hired in 2009 at a salary of \$57,000, while his predecessor made \$67,000.
- Assessor Diane Lanney was hired at \$60,000 and her predecessor, Mr. Comee, made \$65,000. There were only three candidates, all women.
- Sue Byrne replaced Diane Lanney at a salary of \$55,000 (Sue was one of the original three candidates).
- Joshua Cormier was hired at \$62,000 as Assistant Director of Community Development while his predecessor earned \$65,000.
- Jennifer Susen-Roy was hired by the Board of Health as Public Health Director. At the Board's recommendation, a step system was established until she achieved the required certifications.
- Jeffrey Cooke was hired a lower salary than his predecessor, Dick Reynolds, even though Mr. Cooke was a Building Commissioner in his own community.
- When Roland Jean was hired to replace Mr. Cooke, he was the only applicant for the Building Commissioner's position.

Continuing, the Mayor stated that delaying the hiring of the Treasurer was discussed with the Finance Committee – that hiring the Treasurer should come later – September the 2<sup>nd</sup> - so that an Ordinance amendment could be addressed. Tonight's meeting, he said, was the next meeting after she was named Treasurer. He added that the City will have to pay the former Treasurer to train Ms. Dymek. He also cited the current City Auditor, who has a three-year certification cycle, will sit for his exam in February, 2020. He closed by saying that he is disgusted by the implication of bias.

Councillor James Walsh stated that he recited simple facts about positions filled since the middle of 2015.

**ANNOUNCEMENTS and COMMENTARY**

Councillor Craig Cormier welcomed students and faculty back to school and noted the City's MSBA \$49M grant from the State for the new elementary school.

Councillor Nathan Boudreau noted that the City does not offer competitive salaries.

Councillor Christine Johnson also cited the MSBA grant; the recent opening of the 99 Restaurant; and, fundraising efforts by the Gardner High School Band Alumni Association.



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**REGULAR MEETING OF SEPTEMBER 3, 2019**

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President Graves informed the Council that at a recent meeting, he ruled that the Mayor and Council compensation ordinances were out-of-order, noting at that time that they must be substantially different than the Ordinances that were already considered [and defeated]. He said that he believes that his decision was incorrect, as his definitions of “meeting” and “session” were wrong. Accordingly, he said, he would include those Ordinances on the Calendar for the next meeting.

**CLOSING PRAYER**

President Graves led the Council in the Closing Prayer.

**ADJOURNMENT**

On a motion by Councillor Christine Johnson and seconded by Councillor Nathan Boudreau, it was voted viva voce, eleven (11) yeas, President Scott Joseph Graves and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Edward Gravel, Karen Hardern, Christine Johnson, James Johnson, Elizabeth Kazinskas, and James Walsh, to adjourn at 8:57 p.m.

Accepted by the City Council: *September 16, 2019*