

# RECORD OF PROCEEDINGS OF THE GOVERNING BODY CITY OF GARDNER, KANSAS

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January 2, 2024

The City Council of the City of Gardner, Kansas met in regular session on January 2, 2024, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with Mayor Todd Winters presiding. Present were Councilmembers Mark Baldwin, Steve Shute, Kacy Deaton, Mark Wiehn, and Steve McNeer. City staff present were City Administrator Jim Pruetting; Finance Director Matt Wolff; Police Chief Pam Waldeck; Utilities Director Gonz Garcia; Parks Director Jason Bruce; Community Development Director Dave Knopick; Public Works Director Kellen Headlee; City Attorney Ryan Denk; Interim City Clerk Renee Rich. Others present included those listed on the sign-in sheet and others who did not sign in.

There being a quorum of Councilmembers present, Mayor Winters called the meeting to order at 7:00 p.m.

## **PLEDGE OF ALLEGIANCE**

Mayor Winters led those present in the Pledge of Allegiance.

## **PRESENTATIONS**

Proclaim January 15, 2024, as Martin Luther King, Jr. Day in the City of Gardner. Mayor Winters read the proclamation and announced there will be a Martin Luther King display in the Council Chambers from Friday January 12, 2024 through Monday January 15, 2024.

## **PUBLIC HEARINGS**

### **PUBLIC COMMENTS**

None

## **CONSENT AGENDA**

1. **Standing approval of the minutes as written for the regular meeting on December 18, 2023**
2. **Standing approval of City expenditures prepared December 14, 2023 in the amount of \$783,350.98 and December 21, 2023 in the amount of \$576,169.35.**
3. **Consider authorizing the purchase of one (1) Ford F-150 Police Responder and three (3) Ford Utility Police Interceptor SUVs from Shawnee Mission Ford**

Councilmember Shute made a motion to approve the Consent Agenda.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

## **PLANNING & ZONING CONSENT AGENDA**

1. **Consider accepting the dedication of right-of-way and easements on the final plat for Prairie Trace Meadows, Third Plat**

Councilmember Baldwin made a motion to approve the Planning and Zoning Consent Agenda.

Councilmember Wiehn Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

## **COMMITTEE RECOMMENDATIONS**

1. **Consider adopting an ordinance approving a rezoning from RP-1 (Planned Single Family Residential) and RP-2 (Planned Two Family Residential) Districts to City of Gardner Districts RP-1 and RP-2 and associated revised preliminary development plan for Prairie Trace. (23-304-09).**

Robert Case from Community Development discussed Ordinance 2786 which is for rezoning lots in Prairie Trace from RP-2 to RP-1 and other parcels moving from RP-1 to RP-2. Total acreage for the development is approximately 136 acres located at the corner of southwest Clare and 175<sup>th</sup> St. Originally there were 356 lots and they will

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decrease to 353 lots. The 194 suburban lots are being decreased to 160 lots while the neighborhood lots are increasing from 162 lots to 192 lots. Shute confirmed this is a market driven change.

Councilmember Shute made a motion to accept the recommendation of the Planning Commission and approve Ordinance No. 2786, an ordinance changing the zoning classification or districts and associated preliminary development plan of certain lands located in the City of Gardner, Kansas, under the authority granted by Title 17 of the Municipal Code of the City of Gardner, Kansas.

Councilmember McNeer Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2786.

Baldwin:	Yes
Deaton:	Yes
Wiehn:	Yes
Shute:	Yes
McNeer:	Yes
Winters:	Yes

**NEW BUSINESS**

**1. Consider authorizing the amendment of Section 5.05 of the Gardner Municipal Code relating to soliciting, hawkers, peddling, canvassing and public auctions**

Captain Zach Roberts is here to discuss proposed changes that were made to the ordinance after consideration from the discussion during the last council meeting. The first ordinance option being presented is the most in-line with all of the neighboring cities in Johnson County and also our current ordinance. This ordinance does require any solicitor to obtain a permit from the police department. Some of the changes include clarification to what qualifies as a charitable organization. In Section F, the hours were left blank so they can be discussed and agreed upon. Research was done to see what other cities in Johnson County are doing with their soliciting ordinances regarding the times of day allowed and whether or not they require permits. That information was included in the packet. Most cities begin their hours at 10:00 am.

A second ordinance option contains very similar language but removes the requirement for a permit. Everything else is the same, still clarifies what a charitable organization is and also leaves the soliciting hours blank until agreed upon. This also has a list of prohibited acts and requirements to solicit in Gardner but does not require a permit. The advantage of requiring a permit is the solicitor would be issued an easily identifiable card that any citizen can ask to see and the solicitor would be required to show. Without a permit, those solicitors are held to the same standard, but accountability is much more difficult because we are relying on someone to hold themselves accountable.

Councilmembers agreed the hours of 10:00 am through 7:00 pm are reasonable. McNeer proposed making the language say dusk or 7:00 pm, whichever occurs first. Others feel like that addition would make it vague. Agreement was for 10:00 am to 7:00 pm.

Wiehn likes the idea of requiring a permit, then it allows citizens to follow up on a solicitor or make a complaint, because the city has the information on file. McNeer says the professional services group could be up to twenty thousand people and wants to know how we will notify all those services that we have this ordinance requiring a permit. There was continued discussion about the prohibition based on a prior conviction of a soliciting ordinance in another city and whether or not that item should be taken out of the ordinance. Baldwin does not feel requiring someone to get a permit is beneficial to the city. McNeer agrees and says most people obey the law currently and this ordinance appears that it could cause someone to unknowingly get themselves in trouble and would rather

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see a better definition of where no soliciting signs can be placed. Roberts states the signage was better clarified in this version of the ordinance.

Deaton wants to know how many permits we issue and how many complaints we receive. No exact number is known right now, but most solicitors come in large groups. There have probably been 15 permits in the last three months and no known complaints. There are seventeen cities in Johnson County, thirteen of which require a permit and only four do not. The majority of the cities follow a very similar ordinance to ours with similar terminology. We did clarify the no soliciting or no trespassing sign should be prominently displayed. Baldwin says that if they have the permit, then we have the information if someone complains but residents should be responsible for displaying their signs where people can see it. This situation would be similar to fireworks, may still not know who it was and may not have much for enforcement when police get there and there is no longer a violation.

Deaton asks what the normal turn around time for obtaining a permit after application. Roberts says that is based on manpower, but usually within an hour or two unless there is a large group and the department gets them ready then calls the solicitor for pick up the following day.

Discussion continues about parts of the ordinance which should potentially be removed or amended and whether a permit should be required. Consensus was to adopt the ordinance that removes the requirement for a permit and sets the soliciting hours to 10:00 am to 7:00 pm. The amendments discussed for the ordinance were no longer needed since the ordinance version which does not require a permit no longer contained the language in question.

Councilmember Baldwin made a motion to adopt Ordinance No. 2787, an ordinance of the City of Gardner, Kansas amending Section 5.05 of the Gardner Municipal code relating to soliciting, hawkers, peddling, canvassing and public auctions.

Councilmember McNeer Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2787.

Deaton:	Yes
Wiehn:	Yes
Shute:	Yes
McNeer:	Yes
Baldwin:	Yes

**COUNCIL UPDATES**

Chief Waldeck said we had a new police officer start today and will go to academy in February. We also have a recruit graduating February 2<sup>nd</sup>. We are entering the final stages of our sergeant promotion process. Shute asked about the staffing numbers; we are currently down four and have three sworn in the process.

Administrator Pruetting provided an update on health insurance. The city is still pursuing options and expects to get bids in February since we have tough decisions to make. Pruetting advised employees received letters this week from Humana stating they are getting out of group health insurance. Baldwin asked what would happen if we get no bids. We will look at self insurance, but our consultant is asking for bids regardless of what it is.

Shute asked finance about year end numbers, Finance Director Wolff said the year end process takes a couple weeks since we are waiting on final invoices. We will have preliminary numbers in February and audited numbers in June. He believes expenditures and revenues will be where the budget is. In prior years, our revenues were exceeding budget, but this year our projections appear to be on point. Friend of the city, Eldon Rothwell passed away this week. He will be missed. Funeral arrangements are pending.

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**EXECUTIVE SESSION**

1. Consider entering into executive session to discuss personnel matters of non-elected personnel relating to the City Administrator's annual performance review

Councilmember McNeer made a motion to recess into executive session to discuss personnel matters of non-elected personnel relating to the City Administrator's annual performance review pursuant to K.S.A. 75-4319(b)(1) beginning at 7:39 pm; returning to regular session at 7:54 pm.

Councilmember Shute Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Deaton made a motion to resume regular session at 7:54 p.m.

Councilmember McNeer Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

2. Consider entering into executive session for the purpose of engaging in preliminary discussion relating to the acquisition of real property.

Councilmember Shute made a motion to entering into executive session for the purpose of engaging in preliminary discussion relating to the acquisition of real property pursuant to K.S.A. 75-4319(b)(6) beginning at 7:55 pm; returning to regular session at 8:05 pm.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Shute made a motion to resume regular session at 8:05 pm.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**ADJOURNMENT**

There being no further business to come before the Council, on a motion duly made by Councilmember McNeer and seconded by Councilmember Wiehn the meeting adjourned at 8:05 pm.

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City Clerk

# City of Gardner, KS

## Council Actions

January 2, 2024

The City Council took the following actions at the January 2, 2024, meeting:

1. Approved the minutes for the regular meeting on December 18, 2023. (Passed unanimously)
2. Approved City expenditures prepared December 14, 2023 in the amount of \$783,350.98 and December 21, 2023 in the amount of \$576,169.35. (Passed unanimously)
3. Authorized the purchase of one (1) Ford F-150 Police Responder and three (3) Ford Utility Police Interceptor SUVs from Shawnee Mission Ford. (Passed unanimously)
4. Accepted the dedication of right-of-way and easements on the final plat for Prairie Trace Meadows, Third Plat. (Passed unanimously)
5. Adopted Ordinance 2786 approving a rezoning from RP-1 (Planned Single Family Residential) and RP-2 (Planned Two Family Residential) Districts to City of Gardner Districts RP-1 and RP-2 and associated revised preliminary development plan for Prairie Trace. (23-304-09). (Passed unanimously)
6. Adopted Ordinance 2787, an ordinance of the City of Gardner, Kansas amending Section 5.05 of the Gardner Municipal Code relating to soliciting, hawkers, peddling, canvassing and public auctions. (Passed unanimously)
7. Recessed into executive session for 15 minutes to discuss personnel matters of non-elected personnel relating to the City Administrator's annual performance review.
8. Recessed into executive session for 10 minutes for the purpose of engaging in preliminary discussion relating to the acquisition of real property.