

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

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January 16, 2024

The City Council of the City of Gardner, Kansas met in regular session on January 16, 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**

### **1. Gardner Land Bank**

Finance Director Matt Wolff said the land bank is required to provide an annual report to the Governing Body accounting for all receipts, disbursements, and property transactions. In 2023, the City of Gardner, the Board of Trustees of the Gardner Land Bank, the Bristol Groupe, LLC, and Bristol Partners XVIII, an affiliate of the Bristol Groupe entered into a Land Bank Agreement in order to address tax delinquencies and abate a portion of special assessments on the property comprising the Stone Creek Project. The proposed development project includes a combination of commercial, industrial and residential. In conjunction with the Land Bank Agreement, three parcels were conveyed to the land bank. We started the year in 2023 with \$5,096.90 and the land bank earned \$252.45 in interest on idle funds. There was \$148 in expenditures for recording fees paid to Johnson County Records and Tax Administration. The land bank's financial records will be audited as part of the City's 2023 audit.

### **2. US 56 and Mulberry Traffic Signal Study**

Engineer Tim McEldowney gave a history on the Mulberry and 56 intersection. As best as we can tell, the traffic signal was installed somewhere in the mid 1980s when US56 was widened to four lanes. It has been around a long time and is roughly 40 years old, so there have been a lot of maintenance issues in recent years. During the most recent US 56 project, it was decided to put together a change order and make improvements to it. The estimates for improvements came in around \$150,000 and complete replacement came in around \$250,000. The costs were significant, so it was decided to have an analysis done to determine if the current traffic conditions warranted a signal. HDR was hired to collect data and do an analysis. Jason Haynes from HDR appeared via Zoom to present the findings. He described the location and surroundings used to perform the study. Traffic Signal Warrants standards is the basis for an engineering study to look at traffic conditions, pedestrian characteristics and physical characteristics of the location to determine whether installation or removal of a traffic control signal is justified. There are consequences of using an unwarranted traffic signal. Typically, an unwarranted traffic signal will surprise motorists and if they have to brake harder and quicker, there tends to be a higher rate of rear end crashes. It can also create a delay and congestion. Lastly, it can create disobedience of traffic signals if people feel like they are stopping and nobody's there, they may run the red light. This study found there were six traffic warrants applicable to this location. None of those criteria were met. The first three are related to traffic volumes whether it's during the day or peak hours. Warrant four is related to pedestrian volumes. Warrant five is relative to the location near schools and to determine if there is a need to help students safely cross the road. Warrant seven is related to crash experience. Five years of crash data was reviewed to determine if the warrant was met. The process for keeping or removing a signal is a bit more than just the study. Even if the study determines the signal is not justified, there are still guidelines to removing a signal. One of the process items includes public comment. The public input had about eighty percent of the comments being in favor of retaining the traffic signal. Some of the reasons provided by citizens included providing better access onto Main Street for citizens and businesses near the intersection; signalized crossing for children to/from the nearby schools; and it encourages traffic calming along this stretch of Main Street.

Tim McEldowney said staff recommendations would be to remove the signal due to the study showing the signal is not warranted, but public input said we should consider leaving the signal. Administrator Pruetting said he reached out to the superintendent to offer them the opportunity to submit comments. Pruetting, Public Works Director Kellen

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Headlee and McEldowney met with the school district to see if they had any input since there are two schools near the intersection. They did not have a strong opinion either way and decided not to submit comments on the issue.

Wiehn asked if the volume study was a ninety-day study and what the dates may have been. McEldowney clarified the road opened back to four lanes in September. The signal had been turned off during construction and it was left off through the end of the year. It included over three months worth of information. Haynes said the new traffic volumes were taken in October after traffic patterns went back to normal.

Baldwin says this signal was off for over two years and the data says we don't need it. Until there is a reason to spend money to put something in, not sure why we would consider anything right now. Shute asked about the updated costs to replace. Complete traffic signal replacement would be approximately \$250,000. There was a question about including it under signal synchronization and it was confirmed this signal would be included, but it's under a separate contract. If we were to put a new signal in that location, it would probably take a year to get the drawings done along with the funding. There would also be additional work needed just to get it functioning if a decision was made to replace it.

Shute asks if there has been an increase in accidents at that location during the time the signal has been off. There were several accidents during the construction period but have not been any since construction ended and the road has been reopened. Deaton asked how many emails were received for public comment. Haynes said there were at least thirty or forty comments, but not sure how many were emails. Shute says several businesses have contacted him and are in favor of keeping the signal and opposed to having it removed. Deaton says she agrees with others that it would be another year before it could be replaced, meaning it would be out for a total of three years additionally, none of the criteria was met.

McNeer had citizen questions about a pedestrian crossing mechanism in that location that may be less expensive. McEldowney said that is something that could be discussed. Due to the number of lanes, we may have to look at "hawk" signals like what has been installed by the new courthouse in Olathe. Those turn red to stop traffic, but cannot be installed at an intersection, so another location would have to be determined. Haynes said the estimated cost of installing a pedestrian signal could be around \$125,000 to \$150,000.

Consensus of the council is not replacing the full signal as it was before. A pedestrian signal could be warranted in the future if things change and data supports it.

**PUBLIC HEARINGS**

**PUBLIC COMMENTS**

None

**CONSENT AGENDA**

- 1. Standing approval of the minutes as written for the regular meeting on January 2, 2024**
- 2. Standing approval of City expenditures prepared December 27, 2023 in the amount of \$108.50; December 29, 2023 in the amount of \$332,912.56 and January 4, 2024 in the amount of \$1,388,092.08.**
- 3. Consider authorizing the execution of a contract with Riverside Strategic Solutions, LLC for consulting services**

Councilmember Deaton made a motion to approve the Consent Agenda.

Councilmember McNeer Seconded.

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

**PLANNING & ZONING CONSENT AGENDA**

None

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**COMMITTEE RECOMMENDATIONS**

- 1. Consider adopting ordinance approving a rezoning from C-2 (General Business) District to CP-2 (Planned General Business) District; for potential commercial development of 0.81 acres located approximately 400' west of the intersection of Main St. and Moonlight Rd.**

Community Development Director David Knopick says this is a recap of where we are with a proposed rezoning of approximately .08 acres from C-2 District to CP-2 District. This is a triangular property located between Walgreens and Patriots Bank along Main Street. The proposed commercial building is 2,100 square feet with a drive-through service window. There were five deviations requested by the applicant primarily having to do with the drive-through location and transparency on the areas exposed to Main Street. Our code does not generally allow for drive-throughs on the major arterials, and we would require a greater level of transparency on that side of the building. Due to the configuration of the slot, staff did not have a problem with these deviations. We have approved this kind of configuration in several other locations. We ask for enhanced screening, so we don't have headlights facing oncoming traffic. The other deviations had to do with sidewalks widths along the building, but this is primarily a drive-through business. Another deviation is related to the sign height and size. Plan revisions include pushing the sign back five feet further and granting the deviation. The Planning Commission held a public hearing in December. After discussion and consideration, they wanted to approve the rezoning and preliminary development.

Mayor Winters asked about the timeline for getting everything ready to open the business. The applicant said they still have to meet with the Airport Authority and County Commission which should happen in February and March. They may submit a request for a conditional permit to get started a little earlier around the fourth of July, but if not, will be open closer to September. This will be the first location in this part of Kansas. There are two locations in Wichita, one in Derby, as well as many locations in Oklahoma and Texas.

Councilmember Shute made a motion to accept the recommendation of the Planning Commission and approve Ordinance No. 2791, an ordinance changing the zoning classification or districts 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 Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2791.

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

- 2. Consider adopting ordinance approving a rezoning from RUR (Rural, Agriculture) District to RP-2 (Planned Two Family) District; and consider approval of the associated Preliminary Development Plan for Lone Star Prairie, a 47.71 acre, 191 lot single family subdivision, Located on the south side of 175<sup>th</sup> St. approximately 700' west Osage St.**

Community Development Director David Knopick says this property is approximately forty-eight acres just west of the airport. It is one property separated from the airport on the west side of town along 175<sup>th</sup> Street. This is a single family subdivision, but it is a RP-2 District which is a two family district. This is a planned district. In this case it is proposed for 191 single family lots. It is zoned RP-2 because the lots proposed are under seventy feet wide. It cannot be utilized for duplexes or apartments. There were five deviations requested. Staff and Planning Commission had some concerns about the block length proposed. The Planning Commission did make a request that the road condition be revised. We also had a couple deviations that are common at this stage. Staff was not

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comfortable with the garage limit deviation. Elevations for structures have not been provided. The Planning Commission held a public hearing in December and several concerns were raised. After discussion and consideration, the Planning Commission recommended approval of the proposed rezoning with three conditions.

Baldwin asked if there has been any discussion of the detention pond in that area. What would happen if the temporary lift station gets removed. Knopick said detention and storm water drainage requirements would be addressed as part of the plans. Improvements would be reviewed as they come in.

Shute asked about the proximity of the retention area to the Gardner Municipal Airport east-west runway. Public Works Director Headlee said it is far enough away so there is not a concern. The proposal is for dry detention so it should not be wet all the time. There is a pond on an adjacent property and the pond would stay intact but the detention facility as part of this area would be dry.

Mcneer asked about the concerns with elevations and if it is due to one or two car garages. Knopick said the way our code is set up only allows a single car garage with a fifty-foot-wide lot. All of this will be addressed during the review of the final development plan.

Councilmember McNeer made a motion to accept the recommendation of the Planning Commission and approve Ordinance No. 2792, an ordinance changing the zoning classification or districts 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 Shute Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2792.

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

**NEW BUSINESS**

- 1. Consider a resolution authorizing the sale and conveyance of the project and execution of a release of leases and further authorizing certain additional related actions in connection with the City's not to exceed \$9,300,000 industrial revenue bonds (taxable under federal law), Series 2023 (Tallgrass Apartments, Phase Two)**

Finance Director Matt Wolff said on June 20, 2023, city council passed ordinance 2772 authorizing the issuance of industrial revenue bonds in the principal amount not to exceed 9.3 million for the purpose of financing a portion of the cost of acquiring, constructing, and equipping a multi-family development. The proposed resolution acknowledges and approves the Company's request to exercise the option to purchase the Project pursuant to the Lease, waives the notice requirements and sets the closing date on or around January 18, 2024. This also authorizes the execution and delivery of a first supplemental trust indenture which amends the definition of the completion date. This is the date by which the Company must complete the Project and submit its final request for reimbursement of Project costs to the bond trustee.

Councilmember Deaton made a motion to adopt Resolution No. 2134, a resolution authorizing the sale and conveyance of the project and execution of a release of leases and further authorizing certain additional related actions in connection with the City's not to exceed \$9,300,000 industrial revenue bonds (taxable under federal law), Series 2023 (Tallgrass Apartments, Phase Two).

Councilmember Shute Seconded.

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With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2134.

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

**2. Consider a recommendation to award a service contract to Irvinbilt Constructors for the Hillsdale WTP clarifier repairs.**

Utilities Director Gonz Garcia said the during the first Hillsdale Water Treatment expansion, two clarifiers were installed, and their purpose is to remove solids and particles from the water. In 2022, an annual inspection was done on the clarifiers and staff noted deterioration on the upper support of the clarifiers. Several O&M services were contacted, and none could provide a solution or fix for the problem. The original equipment manufacturer was contacted, and they wanted to revamp the entire clarifier system for around \$600,000. The original drawings reviewed found Irvinbilt was the original installer. Irvinbilt visited the plant and worked with one of the original engineers to come up with a plan for repairs. They provided a proposal for replacing the lower and upper supports as the reason for deterioration is that during installation, aluminum or iron bolts were used on stainless and that creates a galvanic corrosion. We were unable to get competitive bidding from other bidders, so we are requesting the competitive bid waiver be applied to this service.

Shute pointed out that Irvinbilt was the original installer and asked if they had used substandard equipment or had not correctly protected the fastening equipment. Garcia advised the design was done by Evoqua and Irvinbilt installed the way they were told to by Evoqua. Garcia confirmed they would be using the correct equipment, stainless steel, in the repairs. Shute asked what would happen in the future and we only have one source, would it require replacing everything. Garcia said there was already a plan in place to retire these. They hope that this repair, and replacement of the media filter can extend the life for the plant an additional five to ten years. It would probably be ten to fifteen years down the road when this entire system will be retired. The feeling is this small investment will save us from replacing with new upgraded equipment at a cost of ten to twelve million.

Baldwin says this is cheap insurance because it keeps the south side running until we can migrate completely and is taking a little load off the north side, so we extend the life of the north side.

Councilmember Deaton made a motion to authorize the City Administrator to award a service contract with Irvinbilt Constructors, in the amount of \$319,976.00 for the Hillsdale Water Treatment Plant clarifier repairs.

Councilmember Baldwin Seconded.

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

**COUNCIL UPDATES**

Chief Waldeck said registration for the Citizen’s Police Academy was opened up on the website and is set to start in March. They are hoping to get twenty people but will wait to see how many applications are received. If there are more than twenty, they will reevaluate and try to accommodate.

Director Garcia advised the system was able to secure enough generation over the last four days, so there was no issue with energy. The peak price went up to \$400 per milliwatt hour but are typically running about \$23 to \$28. The price of gas went from \$3-4 up to \$10, but yesterday they were selling it for \$30. There was a small power outage yesterday due to a transformer which affected 68 customers, but everyone was back up within 60 minutes. There were two water main breaks, one on Saturday and one on Monday. The extremely low

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temperatures and the age of the pipes caused the breaks. Future replacement is being looked at for that section of water main.

Director Knopick advised the Planning Commission meets next Monday evening.

Administrator Pruetting said there is a contract for a property on Center St which will most likely be brought to the next meeting. Pruetting reported Wiehn had asked about a change to the newspaper of record back to the Gardner News during an earlier meeting. We did get a quote from the Gardner News and were able to get updated language on how it would work, but it came in late last week, so we will bring something to the next meeting. Ryan had brought up Second and Third-Class cities publishing on their own website for publications, but further discussion concluded that we couldn't do that for every item. To get legal to review every item needing published would cost more than we would save. Gardner News has committed to placing our notices online in front of their paywall and in print and the cost is less than we are paying now.

Councilmember McNeer wanted to thank the Utility department for their excellent work in this cold weather and to Public Works for doing the great work on the streets. Wiehn, Deaton and Baldwin shared the same sentiments of all the hard work during this weather. Shute agreed and said to add first responders who had to be out in the weather as well.

Mayor Winters wants to discuss that we have multiple committees that may not be fully utilized, and it seems we are trying to fill committees so they may not be serving much of a purpose at this point. Some have not met in quite some time and when they do meet it seems to be more of an update and not so much advisory. To simplify and streamline, we need to look at some of the committees as being dissolved or changing the language that they only meet if there is a specific project that we are needing advice or citizen input on. Planning Commission is required by statute, Utility Advisory Committee has merit, but there may be others that could be dissolved or changed.

Baldwin says it seems we are always trying to get people to serve. If we have them open to as-necessary committees, it may be easier to get people to want to participate. It also helps that they wouldn't have to commit for four years. Shute says we could have working group committees that are project based and involve those that are interested. McNeer said he liked the idea since he originally got started with city service in EDAC and it's a great way to get people involved in city government and public service. Since we have a community policing officer that we didn't have before, maybe the Citizen's Police Advisory could be handled in a different way. Deaton said they used to take the people who went to the Citizen's Police Academy and put them on the list as a working group. When the Police Department needed input or help, they could contact that group of people. Shute says this has probably been the most active committee outside of the Planning Commission and Utility Advisory Committee. Shute suggested a good place to start may be to get a distribution list from these groups to find individuals who have already expressed interest. This would require an Ordinance update and then an email could be sent to those individuals that the standing committees are no longer in existence, but we will keep everyone's contact information and give them opportunities to be in the working group as the need arises. Wiehn would like to make sure we get public feedback. Denk advises we will have to rewrite our ordinance. Consensus was to keep Utility Advisory Committee, Planning Commission and the Airport Board. So Public Works and Accessibility Committee, Citizen's Police Advisory Committee, Economic Development Advisory Committee and Parks and Recreation are the four that would be on the list for restructuring to a project basis.

**EXECUTIVE SESSION**

**ADJOURNMENT**

There being no further business to come before the Council, on a motion duly made by Councilmember Deaton and seconded by Councilmember McNeer the meeting adjourned at 8:04 pm.

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City Clerk