

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

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June 3, 2024

The City Council of the City of Gardner, Kansas met in regular session on June 3, 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, Kacy Deaton, Mark Wiehn, Steve Shute 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; 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

PUBLIC HEARING

1. Hold a public hearing to receive public comment on the results of the Phase II Treadway Apartments Cost Benefit Analysis and granting of exemption from ad valorem taxes.

Councilmember Deaton made a motion to open a public hearing for the purpose of receiving comments on the results of the Phase II Treadway Apartments Cost Benefit Analysis and granting of exemption from ad valorem taxes.

Councilmember Shute Seconded.

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

Tyler Ellsworth, Kutak Rock, said this is Phase II of the Treadway Apartments at the southwest edge of the Grata Development. Phase II is 162 units and because there's a property tax abatement at issue we're required to prepare an analysis of the cost and benefit of each of the affected taxing entities including the city, county and state of Kansas. The cost benefit analysis came back positive for each of the jurisdictions.

No members of the public came forward

Councilmember McNeer made a motion to close the public hearing.

Councilmember Deaton Seconded.

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

PUBLIC COMMENTS

Brandon Mitchell, refuse to give address because I'm live on the internet, I have been requesting the mayor's oath of office for two months and they refuse to give it to me because they say it is part of the personnel record.

Steve Zalodek, 636 E Willow, commends the council, police department and City Administrator for starting the meeting with the Pledge of Allegiance. My issue is there is an abandoned vehicle and it's my understanding that an abandoned vehicle should be cited after three days with the possibility of being towed. As of today, the vehicle has been sitting and then it gets moved to another location every couple of weeks. The location now is Cedar and White. It has not been registered since May 2023. It also has an unregistered, unlicensed trailer attached to it. I cannot get anyone to cite this vehicle. The owner of the vehicle is deceased. There is an individual living in the townhomes that has possession of the vehicle who periodically moves the vehicle to avoid having it towed. My question is what constitutes an abandoned vehicle and what gives the police department the authority to tow the vehicle? I don't know if the vehicle is in the possession of an individual who is a descendant of the deceased or if it is stolen. But we allow that vehicle to drive on public highways without insurance, without being registered and with a trailer that is not licensed and registered. I know this is not a codes violation and the police department has been reluctant to tag it because a citation would be issued to a deceased individual. So, I am asking the council, the city administrator or the mayor to help get this vehicle off the road and have it towed. If the guy really wants it, he'll get it registered and do it properly.

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CONSENT AGENDA

1. **Standing approval of the minutes as written for the regular meeting on May 20, 2024.**
2. **Standing approval of City expenditures prepared May 16, 2024 in the amount of \$871,259.95; May 23, 2024 in the amount of \$1,068,988.34; and May 24, 2024 for \$900.00.**
3. **Consider authorizing an agreement with KDOT for the Gardner Traffic Signal Interconnect Project.**
4. **Consider authorizing the City Administrator to execute a Memorandum of Agreement with Evergy for Substation 4.**
5. **Consider approving a City/County agreement for reconstruction of a culvert on Four Corners Road.**

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

None

COMMITTEE RECOMMENDATIONS

OLD BUSINESS

NEW BUSINESS

1. **Consider adopting a resolution declaring the intent of the city to issue Industrial Revenue Bonds for the purpose of financing the acquisition, construction, and equipping of a multifamily apartment project within the city (New Trails Multifamily, Phase 2)**

Finance Director Matt Wolff said this is related to the public hearing and is a development agreement the city has with Grata.

Councilmember Wiehn asks about validation of analysis in the assumptions that are made. Wolff said staff & bond counsel look at it and compare it to ones done in the past. Wiehn asks if after review there is anything that they say the assumption was too high or too low or seemed right. Wolff said there is some back and forth where we question assumptions, but we agree with the assumptions and think it's where it needs to be. Councilmember McNeer said there was one assumption that stood out. In year two they were at 75% occupancy and in year three they are at 95% occupancy and that seems a bit aggressive. What happens to the rest of the performance if they don't meet those targets? Tyler Ellsworth said from the city's perspective, there are sales tax generation and transient guest tax generation from those levels of occupancy that really drive things, this is more in addition to the property tax base of the city and still holds true whether or not they are at 85%, 95% or 55% occupancy, the property tax value is still the same. It's accurate to say they might be closer to 100% occupancy by the third year as they've had tremendous success in leasing the first phase of the apartments and I would expect that with the second phase as well. McNeer asks if the value of the property is based upon occupancy. Tyler says this is not based upon occupancy. Councilmember Shute asks about the commercial development on this property and feels they have struggled to meet the benchmarks. Wolff explains that they expect the multifamily to build out first. Retail follows rooftops so that is what they are focused on with phase two. In the final phase of the apartments, we would expect the commercial to start moving. Administrator Pruetting said there were no general commercial development milestones, it's all tied to the CID. And those were slowed due to the pandemic.

Councilmember Shute made a motion to adopt Resolution No. 2142, a resolution declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds (taxable under federal law) in the principal amount not to exceed \$29,000,000 for the purpose of financing the acquisition, construction, and equipping of a multifamily apartment project within the city (New Trails Multifamily, Phase 2)

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Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2142.

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

2. Consider approving an ordinance levying and assessing special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of improvements in the City of Gardner, Kansas, as authorized by Resolution No. 2140 of the City (Lone Star Prairie Special Benefit District)

Finance Director Matt Wolff said the developer and property owner has petitioned the city for the creation of a special benefit district for the construction of a lift station and offsite sanitary sewer improvements. The ordinance levies \$1.15M for benefit district improvements. If the construction costs are lower than estimated, the amount of the assessments against the property will be correspondingly reduced. The cost of improvements will be assessed 100% against the improvement district and 0% against the city at large. The proposed term of the improvement district is 20 years.

Councilmember Deaton made a motion to adopt Ordinance No. 2799, levying and assessing special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of improvements in the City of Gardner, Kansas, as authorized by Resolution No. 2140 of the City (Lone Star Prairie Special Benefit District)

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2799.

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

3. Consider adopting an ordinance amending Ordinance No. 2687 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One Offsite Sanitary Sewer and 167th Street Special Benefit District on certain lots, pieces, and parcels of land in the City.

Finance Director Matt Wolff said on December 21, 2020, the city council adopted Ordinance number 2687 an ordinance levying and assessing maximum special assessments to pay for the cost of the offsite sewer on 167th Street for Hilltop Ridge residential development. The improvements have been completed and the final costs are now known. The proposed ordinance would amend ordinance 2687 to finalize the special assessments based on the final cost of the improvements. The city plans to issue general obligation bonds this summer to provide permanent financing for the improvements. To help mitigate the risk to the city, the developer has provided an irrevocable letter of credit for the amount of \$190,000. The credit will expire after the completion of residences on 31 lots within the Hilltop Ridge first plat. The final cost of the improvement district will be assessed 100% against the improvement district and 0% against the city at large. The proposed duration of the district is 20 years.

Councilmember Shute made a motion to adopt Ordinance No. 2800, an ordinance amending Ordinance No. 2687 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One

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Offsite Sanitary Sewer and 167th Street Special Benefit District on certain lots, pieces, and parcels of land in the City.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2800.

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

4. Consider adopting an ordinance amending Ordinance No. 2688 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One First Plat Internal Improvements Special Benefit District on certain lots, pieces, and parcels of land in the City.

Finance Director Matt Wolff said this is related to the second benefit district for the Hilltop Ridge residential development. The final costs are now known for the first plat internal improvements, so the purpose of this ordinance is to amend ordinance number 2688 to finalize the special assessments based upon the final cost of the improvements. The city plans to issue general obligation bonds this summer as well to provide permanent financing for the improvements. The final cost of the improvements for this improvement district is \$535,000. The cost of the improvements will be assessed 100% against the improvement district and 0% against the city at large. The proposed term of the district is 20 years.

Councilmember Deaton made a motion to adopt Ordinance No. 2801, an ordinance amending Ordinance No. 2688 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One First Plat Internal Improvements Special Benefit District on certain lots, pieces, and parcels of land in the City.

Councilmember Wiehn Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2801.

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

5. Consider an ordinance of the City of Gardner, Kansas amending Section 2.10.010 of the Gardner Municipal Code relating to the Governing Body.

City Administrator Pruetting said this is the time of year we look at pay structures for the employees and participate in a countywide survey to look at salaries for different positions. A lot of cities list mayor and governing body in that survey. I had our senior management analyst look at the pay levels for the governing body and mayor. We realized there was nothing in codes as far as structure. It looks like going back ten years, it was in the budget and then dropped off and disappeared. This will amend the code so that we have a structure for changing the compensation for mayor and council members.

Councilmember Deaton asked if this was to add the council to the pay structure so it will come up every time we look at staff? Pruetting said this can be brought up any time, this gives us structure and authority to do it.

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Councilmember McNeer made a motion to adopt Ordinance No. 2802, an ordinance amending Section 2.10.10 of the Gardner Municipal Code relating to the Governing Body.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2802.

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

6. Consider a resolution establishing compensation for the Governing Body pursuant to Gardner Municipal Code Section 2.10.010.

City Administrator Pruetting said the easiest way to determine where compensation should be is by population. We removed Prairie Village and Edgerton out of the list. If you look at the population and the proposal for council pay is 40%. Overland Park offers a straight 40% of the mayor pay for council. So when the mayor salary is adjusted, it automatically adjusts the council pay to 40%.

Shute said we looked at compensation due to a municipality to the west that forced our hands years ago. We have had to address challenges that a lot of municipalities our size haven't had to deal with. It is weird for elected officials to vote on a pay raise, but considering we haven't had a compensation adjustment in over a decade and the fact that the city is now a third larger than I was, I think it's warranted. The mayor's position has become more complex than it was. I am in support of this and this does reflect accurately what we do here.

Deaton asks if we should change the resolution to read the mayor's salary and then council receives 40% so that if the mayor's salary changes, the council changes along with it. Another city's ordinance includes the council president gets 45%. Pruetting said we can make that change to the resolution if that's what is requested.

Baldwin said even places that use volunteers have paid employees. We have large packets that we are going through and researching. I am in support of this because we need an adjustment, even for those who here in the future.

Wiehn said the only problem with having the president get a higher rate, the people are not the ones voting who is going to be president.

Shute says that some of the work that used to be on the mayor has now been spread out and there is more falling on the president, it makes sense to add a small amount to the compensation.

Mcneer said he was surprised when he had money show up in his bank account because the planning commission is non-compensated. Council president and vice president do more than the other council members, so it is reasonable.

Consensus was to amend the resolution to include the council shall receive compensation at 40% of the Mayor's salary with the exception of the Council president who shall be compensated at the rate of 45% of the Mayor's salary.

Councilmember Deaton made a motion to adopt Resolution No. 2143, with noted changes, a resolution establishing compensation for the Governing Body pursuant to Gardner Municipal Code Section 2.10.010.

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 2143.

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

COUNCIL UPDATES

Captain Hayes said they have increased foot patrol at the parks. We did offer a conditional offer for a lateral transfer today. I was aware of the concern of the vehicle and our staff has been working through it.

City Administrator said our population has teetered around 25,000. We have the obligation at some point to look at City of the First Class and we have started a list of pros and cons and we'll consult with Ryan and bring something to council for consideration. City Attorney Ryan Denk said the Kansas Budget Office certifies the population of every city in July and is sent to the Secretary of State. There is no timeframe in the statute to certify your population to the governor.

Shute was asked where the number has to come from because there was a survey that came out recently showing that we have already exceeded 25,000. Denk says it has to be census data and it is published yearly. Shute said we will have to look at our ordinances and our charter ordinances since those were drafted as a city of the second class. Denk said if we don't want to change the way we are doing things now, we can use home rule to allow it. Shute says there is one item that we can't home rule out of is wards. Denk said we will have to look into that.

Pruetting said there have been internal discussion on infrastructure special sales taxes and the time on an election if we choose to do that. We are less than a year away from having to do an election. Shute thinks this should be done in an open session. Deaton reminded that our worksessions are public meetings.

McNeer heard positive comments on the assessment on the wind damage we had the other night that had been determined an EF1 tornado. Want to give a shout out to public safety and city staff for everything done.

Wiehn thanks Parks and Recreation for National Trails Day and the nice trip around the greenway.

Shute echoes what McNeer said. We have great electric service here since our lights did not go out during the tornado. I would put our electric people up against any other agency in the region. Had heard citizen concerns about Veterans Park and the vandalism and destruction of property. Bruce said there are cameras out there. Parks and Rec has not received any complaints. Shute said he has seen PD cars out there regularly.

Baldwin wants to point out that the city has done a great job to prepare for storms with tree trimming and moving things underground. We are seeing some of the fruits of the labor from the hard work.

Mayor said he has been contacted and it has been on social media requesting firework discharge dates and times to be adjusted to the 3rd, 4th, 5th. Baldwin said he had responded to the email. Baldwin said he had liked the original idea of sliding dates based on the day of the week, but the council decided to set dates to make it easier for the public to understand. Deaton said years ago, she was on citizens police advisory and made suggestions to make is sliding. However, that meeting had public comment saying it was very confusing. The problem is our firework stands have to close on the 4th and people will hoard their fireworks to keep shooting them. Shute said it is set for the 2nd, 3rd, and 4th. Wiehn said everyone will do their best when people are still shooting them all weekend. Pruetting said to keep in mind the expectations. It's an impossible task for the police to ticket that one person they catch when there are 500 other people doing it. There is consensus to keep it the way it is written.

EXECUTIVE SESSION

ADJOURNMENT

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There being no further business to come before the Council, on a motion duly made by Councilmember McNeer and seconded by Councilmember Deaton the meeting adjourned at 8:00 pm.

City Clerk