

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

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February 20, 2023

The City Council of the City of Gardner, Kansas met in regular session on February 20, 2023, 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, Tory Roberts, and Mark Wiehn. City staff present were City Administrator Jim Pruetting; Deputy Administrator Amy Nasta; Finance Director Matthew Wolff; Police Chief Jay Belcher; Parks Director Jason Bruce; Public Works Director Kellen Headlee; City Attorney Ryan Denk; and City Clerk Sharon Rose. 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 Lake Update

Deputy Administrator Amy Nasta said staff and the Mayor recently met with Johnson County staff, Commissioner Allenbrand, and a contingent of citizens from Gardner Lake to discuss project costs for Gardner Lake. This presentation will consider the potential costs for spillway repairs and dredging projects, and potential avenues for cost recovery on these projects. One of these avenues is annexation of the properties surrounding the lake into the City. In that scenario, road improvement costs will also be considered. The properties included in these analyses are the properties within the immediate perimeter roads surrounding the Lake. A challenge of analyzing this area is the inconsistent property lines and boundaries. This study included about 420 distinct parcels. Many residents own more than one adjacent or nearly adjacent parcels, making it difficult to determine how assessments and other issues should be resolved. For this analysis, land owned by a single individual (including trusts for that individual) are considered as one "owner". This equates to approximately 233 "owners". All analyses will be done by "owner" rather than by "parcel" to eliminate as much confusion as possible and to provide the most equitable and realistic cost analysis.

Nasta then reviewed the estimated project costs for the proposed projects. Spillway repairs have an estimated cost of \$473,673. This includes 50% payment towards eligible engineering and construction costs by Johnson County. Dredging has an estimated cost of \$1.9 - \$2.35 million. For the first scenario, an increase in dock fees, the cost projections are focused on the spillway and dredging projects alone. Costs for road improvements will be considered only in an annexation scenario. There are approximately 198 docks at Gardner Lake, each of which is assessed a current dock fee of \$40 per dock. The numbers included in the upcoming analysis (1) assume the full project costs will be assumed by dock owners and (2) are based on principle alone. Adding in interest to cover the interest costs that will be incurred by the City would result in significant additional fees. A project cost of \$473,673 for the spillway equates to a cost of \$2,392.28 per dock owner for spillway repairs. If the cost were spread over five (5) years, this would equate to a cost of \$478.46 in additional dock fees per year per dock owner, while spreading the cost over twenty years equates to \$119.61 in additional dock fees per year per dock owner. Since the cost for dredging is a range, a figure of \$2 million was used for these estimates. A project cost of \$2 million for dredging equates to \$10,101.01 per dock owner. Spreading this cost over five years equates to a cost of \$2,020.20 in additional dock fees per year per dock owner, while spreading the cost over twenty years equates to \$505.05 in additional dock fees per year per dock owner. Combining the spillway and dredging costs yields an estimated project cost of \$2,473,673, or \$12,493.29 per dock owner. Over five years, this equates to \$2,498.66 in additional dock fees per year per dock owner, while spreading the cost over twenty years equates to \$624.66 in additional dock fees per year per dock owner. The number of docks, 198, is not equivalent to the number of property owners, approximately 233, meaning that not all property owners have a dock, and some property owners have multiple docks. An estimated 58 of the approximately 233 property owners (or 24.89%) do not have a dock and would not be subject to these fees. Additionally, some owners may choose to remove their docks with such significant increases, or may remove additional docks they may have, further increasing the potential cost burden on those with remaining docks.

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Another option for paying for the necessary improvements to Gardner Lake is annexation. This would allow the City to use property tax revenue to fund improvements and/or to levy an assessment against property owners, as the City cannot levy an assessment on County properties. Based on 2022 Appraised and Assessed values and assuming a mill levy of 18.854, the estimated property tax revenue for all properties combined is \$176,433.52 annually. In an annexation scenario, the roads would need to be paved. The City does not have appropriate equipment to maintain a large amount of gravel roads. Assuming 12,290 linear feet (approximately 2.33 miles) of road were paved with four inches of asphalt to a 4" depth, the projected cost for this project would be approximately \$1.7 million. If 100% of the property taxes generated in this area were put towards road improvements, 9.68 years' worth of property taxes would be required to repay the principle alone. Similarly, paying for the spillway project would require 2.68 years' worth of property taxes, while paying for an estimated \$2 million in dredging costs would require 11.34 years' worth of property taxes. In total, there is an estimated total project cost of nearly \$4.2 million, requiring 23.66 years' worth of property taxes to recover. These numbers would be for principle costs alone, and would assume that 100% of property tax revenue was being used for project costs. When considering these costs, it is unrealistic to assume that 100% of property tax revenue could be allocated towards project costs. While the City currently performs some road maintenance and mowing, these responsibilities would increase. Additionally, the City would then be responsible for snow removal, policing, codes enforcement, and all other municipal responsibilities for an additional 233 households. These estimates assume that 100% of the property owners in the studied area have been annexed into the Gardner City limits. If the City were to annex, an option could be levying a special assessment against these properties to pay for project costs. At a total of \$4.2 million in project costs, this equates to a special assessment of approximately \$18,026 per property owner. Over a twenty-year term, this would result in an annual principle value of approximately \$901 per property owner. However, as with all other payment scenarios covered in this presentation, this does not include interest payments, which may cause the projected annual payment to increase significantly, up to nearly double in some scenarios. Additionally, many of the properties already have a special assessment for sewer, water, or both levied against them. Of the approximately 233 property owners in this area, 212 (90.99%) are subject to Special Assessment LSD#1 Killcreek #2. The average assessment per owner is \$977.06 per year, which increases to \$1,064.63 per owner when those not assessed are removed. Additionally, 68 (29.18%) are subject to Special Assessment JCW SAC. The average assessment per owner is \$45.91, which increases to \$155.94 per owner when those not assessed are removed. 65 (27.90%) are subject to both assessments. The average assessment per owner is \$1,220.57 per year for those assessed both.

Staff were asked previously how many property owners at Gardner Lake are currently residents of Gardner and pay Gardner taxes. Of the approximately 233 property owners, 9 (or 3.86%) have all or a portion of their property annexed into Gardner's city limits. Of these nine property owners, five also pay dock fees to the City.

Councilmember Shute noted those in the city who have docks, and asked if they will be assessed in the city or not. Councilmember Baldwin said they would; dock fees are for maintenance. Councilmember Deaton said annexing is not feasible or the right option. Baldwin agreed. The city owns the water, but can't access it. The lake is mostly privately held. Improvements are cost prohibitive for residents, but it's not right to assess all of the city's residents when they can't access the lake. Baldwin wants to see the real numbers with interest. The city has the water but hasn't done anything with it. He supports grant opportunities to help with the spillway repairs because there is a liability issue, but would support the Lake Association taking the lake from the city after spillway repairs are complete. Shute said there are water rights for the golf course.

PUBLIC HEARINGS

PUBLIC COMMENTS

Mayor Winters read into record a comment submitted electronically from Jan Pringle, 15271 Lake Road 1, stating: "I have been a Gardner Lake resident for 25 years. More than once, I've heard council members state the opinion that lake residents do not contribute financially to the city or to lake upkeep. I am writing to dispel that myth. All lake property owners pay school taxes, which benefits the city. Last year, just for my small house, I paid \$1,560 for USD 231. For larger homes, this amount is significantly higher or even double. The countless home

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renovations and many new homes being built constantly increase the money devoted to USD 231. Also, we are paying over \$1,200 per year for 20 years toward the sanitary sewer assessment. Sanitary sewers play a large role in protecting the health and quality of the lake. Another point is that lake residents raised over \$3,000 for stocking the lake with grass carp. This also plays a large role in protecting water quality. Additionally, lake residents support local businesses in the form of groceries, gas, restaurant patronage, auto repair and a multitude of personal services. That's a lot of tax dollars. I agree with the national consensus that the value of public parks to a community transcends the money invested. Parks are considered an essential public service. Granted, 16% of shoreline is open to the public, but remember there is a boat launch area, shelter and ample parking plus a fishing dock. There is a lovely park below the dam, which also has a shelter. The city's other shoreline properties can make excellent picnic and fishing spots. But I know for certain that few city residents even know these things exist. I see it often on social media when someone mentions Gardner Lake the responses range from wondering where it's located to asking if it's open to the public. I contend the city does little to promote an asset which city residents could be enjoying. To summarize, lake residents do indeed contribute and you do indeed own a real asset."

Susie Townley, 15415 Lake Rd 3, said she is one of the few homes located within the city limits of Gardner. Of one of the 8 property owners with 5 docks, they pay \$3,000 in city taxes. That doesn't include the dock fees. They have the same city services available as every other lake resident has. They don't get road maintenance, they don't complain. When she voluntarily annexed in the 90s, she was told it would be beneficial because they would get cheaper water rates. They got a fire hydrant. If dock fees are raised, the residents on Lake Road 3 and other annexed properties should receive special consideration.

Amy Heaven, 29360 Lake Rd 11, said she is the president of Gardner Lake Association. They are willing to take responsibility for what they are able to do. The rumor that they aren't willing to be responsible is not correct. They have met several times to discuss options and possible scenarios that are mutually beneficial. There is an air of cooperation. There are more full time residents now. She hopes they can reach an agreement and thanked council for this meeting.

Mike Stoppard, 29340 Lake Rd 11, thanked Deputy Nasta for her presentation. With any scenario, there are pros and cons. There are issues and they need to figure out what is most equitable. One thing the city can do is to provide information, studies they've done, collaborate with lake residents for a solution. Provide education and identify options. Johnson County is putting in millions to recreation. The population is growing and parks and recreation is part of that.

Clint Anderson, 15335 Lake Rd 2, said it's a weekend place for them; they live in Olathe. He purchased in 2015 and did substantial renovation. They come out every weekend now; they shop and eat in Gardner. Gardner is their weekend resort town. Friends from out of town came and vacationed in his house at Gardner Lake. There are tax dollars being spent outside the 233 properties. It's a unique asset. The residents expect to be part of the solution. \$40 a year doesn't pay for the projects outlined. The residents have to be a meaningful part of the solution. It is public access. He sees the boat ramp and it gets a lot of use. Those users also generate sales tax around town. As long as it's public access, it's not reasonable to put the full cost of the rehab on the 233 property owners. There is a spirit of cooperation.

CONSENT AGENDA

- 1. Standing approval of the minutes as written for the regular meeting on February 6, 2023**
- 2. Standing approval of City expenditures prepared January 31, 2023 in the amount of \$147,553.36; February 3, 2023 in the amount of \$160,688.48; and February 10, 2023 in the amount of \$690,172.63**
- 3. Consider an appointment to the Planning Commission**
- 4. Consider an appointment to the Utility Advisory Commission**
- 5. Consider authorizing the execution of an amendment with Hg Consult Inc. for additional design services on the Center Street Sidewalks project**

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Councilmember Deaton made a motion to approve the Consent Agenda.

Councilmember Baldwin Seconded.

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

PLANNING & ZONING CONSENT AGENDA

COMMITTEE RECOMMENDATIONS

OLD BUSINESS

NEW BUSINESS

COUNCIL UPDATES

Councilmember Shute noted the spillway has to be done. How can the city structure this to expend as little expense? Finance Director Wolff said they could issue debt. They can have some fees supporting it. They can designate dock fees in the general fund for payment on the project. Mayor Winters asked about the number quoted. Public Works Director Headlee said that is the city's share. They've been offered grant money the past two years from the county; this is the city's match. Councilmember Deaton asked if the spillway work needed done immediately. Headlee said it's not in danger of structural failure; it's cosmetic failure. The last dam inspection did not indicate a critical need. Deaton said they have time to have a work session. Headlee said they have several months before next round of county funds would be available. Shute said the longer this goes, the higher the cost. Councilmember Wiehn asked about the timeline for dredging. Headlee said there is no timeline. Administrator Pruetting said it's a water quality project. Silting in is an issue for many reservoirs across the country. Shute said it affects the usability of the lake. If it's too shallow, they can't run boats through it. Baldwin has previously said 'drain the lake'. He had a conversation with Ms. Heaven. He noted every one that said they wanted to be a partner; no one has come forward unwilling to work together. Currently, the city doesn't have anything in the works. It's a few voices saying they will work together. There is no group or lake association willing to say what they will do. If the residents can come together, there can be a joint meeting. The city has acquired 50% of the spillway project through grants. \$473,000 is what remains. There isn't incentive for the city to pay it because they won't get anything out of it. The majority of that amount should come from the lake residents, but how. Baldwin noted the public comment about school taxes. They are high, but not set by anyone on the council. The school boards is a separate entity. He appreciates the sales tax traffic. Lake residents won't boycott the city businesses. But it's not a big gain. The mechanism to collect fees shouldn't be dock fees; it should be on all owners. The city's only collection is dock fees. The lake residents could set up benefit district. There is no easy solution. Baldwin doesn't actually want to drain the lake, but if the spillway was to become an actual hazard, it can be lowered. Houses downstream shouldn't be in danger because they don't have the funds. Councilmember Roberts said they do need more information. They need to work together. The lake is an asset. This is a good start, but she doesn't want to have another year go by and nothing is done. Winters said this is why they started the conversation. They are trying to open a dialogue. Roberts said in 2010, they let the homeowners buy the land between property and lake. They came up with a great plan and worked together. She doesn't know why they can't do that now. Shute said the issue is the money. He noted the parkland and boat ramp, and asked if there are any other public access points. Director Headlee said there's a parcel on the southwest end of the lake that is partially accessible and there are two other public access points, one with a gazebo. The majority of public access is along the dam. Pruetting said the basic question is how much is the city willing to pay toward the spillway without cost recovery? What cost is the city willing to absorb? If they knew that amount, they can start conversations with the lake residents. Shute said there's bond and interest costs if the city issues bonds. Can the city take on a portion of that? Director Wolff said cities can participate in benefit districts. Roberts said they have half in grants. Can they use dock fees for half of the remaining and the city can fund the other half remaining? Shute said bond and interest costs wouldn't be included. Winters said they are at a point of asking what the city is comfortable with, if any. Shute said they could absorb the bond and interest costs, and the residents would get the \$473,000. Deaton said they need to be prepared that if they increase dock fees, 20 residents may pull their

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docks. Baldwin noted that there's already a percentage of dock fees they can't collect on. How can they collect extra on top of that? He can't explain to the rest of the city that they raised two mills for a lake they want to give away. There's no reason to annex them because the maintenance costs will exceed the property tax revenue. Winters said they met with the county and asked for options. The county doesn't want the lake, but maybe they can help with the district. Baldwin said the residents need to request the benefit district. Pruetting said the county can issue bonds for the benefit district. Winters said it may be the best solution. Deaton said if there are 30% not paying dock fees currently, they won't have the buy-in for a benefit district. Shute said they need to have some confidence in the residents that they'll be reasonable. Pruetting said the city is enforceable to remove docks that aren't paid. Winters asked if there's consensus that dock fees a difficult method, and that a district may be a better solution. Consensus was achieved. Wolff said they can run bonding scenarios. Baldwin said the next step is for the residents to take the information, and then meet with the city. They can determine what's possible with the residents, and then what ways the city can help. Shute said he's interested in serving a council contact with the lake association, understanding that nothing is binding until it comes before council for action. There were no objections. Deaton said not everyone at the lake is in the lake association. Baldwin said the benefit district is only on the ones who want to buy in. Ms. Heaven said she looks forward to working with council. Winters noted that Amy Heaven wrote a book about the history of the lake, encourages everyone to look at the copy in the lobby.

Chief Belcher said they sent 5 officers to assist with the KC Chiefs parade.

Administrator Pruetting addressed an email that was sent to the governing body from a resident on Center St. regarding trucks. He showed a map of the city's truck routes. The north and west parts of the city are the most direct routes. Center St. is an arterial. PD said 90-95% of the trucks they stop are accessing the businesses on N. Center or driving to developments; they have legitimate reason to be there. Staff are putting truck counters out, but the trucks on Center St. have a legitimate reason for being there. Councilmember Shute said that used to be a truck route. Councilmember Wiehn asked about road repairs. Director Headlee said they are working on design. Councilmember Baldwin said if they designate 167th as a truck route, they wouldn't need Center. Pruetting said Center is the more appropriate road. Baldwin asked if it's not a truck route because of Sunflower Elementary. No one has the history on that. Baldwin said there's no reason to designate it a truck route. If 95% of the traffic have a legitimate reason, then it doesn't matter if it's a truck route or not. Shute said the issue now is they are enforcing because it's not a truck route. Baldwin said if they have a legitimate reason, they aren't getting a fine. Pruetting said the complaint was that it's a no truck route, but still has trucks. He isn't asking for it to be a truck route. Roberts asked if it's because of the resources used to stop those trucks. Pruetting said part of the complaint was inconsistent enforcement; resources could be better used elsewhere. Shute said if 95% of the trucks are valid, why should it be a no truck route. Baldwin said they'd be making a truck route for 5%. Officers are getting familiar with the trucks that should be there. Consensus was to not make it a truck route. Wiehn said they need to be cognizant that trucks are using it for purposes that meet the city's ordinance. Chief Belcher said officers may start to follow trucks, and then back off when they see it turn into the business. Deaton said they need to have better communication to the citizens that these trucks are valid. Pruetting said they've provided substantial communication.

Councilmember Shute thanked Mayor Winters for the opportunity to work with lake residents.

Councilmember Roberts asked for an update on the police chief search. Administrator Pruetting got 34 applications, and staff narrowed the list down to 12. He will start with zoom interviews, and pare the in-person interviews down to 3-5 candidates. He plans to schedule the in-person interviews the 2nd week of March. Roberts asked about pickleball. Director Bruce said the last meeting with the school district was canceled due to no school.

EXECUTIVE SESSION

- 1. Consider entering into executive session for the preliminary discussion of the acquisition of real property**

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Councilmember Shute made a motion to recess into executive session to discuss the acquisition of real property pursuant to K.S.A. 75-4319 (b) (6), specifically preliminary discussions relating to the acquisition of real property beginning at 8:08 pm; returning to regular session at 8:23 pm

Councilmember Deaton 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 8:23 pm

Councilmember Wiehn 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 Baldwin and seconded by Councilmember Deaton the meeting adjourned at 8:23p.m.

City Clerk