

Salt Lake County Council

Committee of the Whole

~MINUTES~

Tuesday, June 27, 2017

[1:36:41 PM](#)

Committee Members

Present:

Jennifer Wilson
Richard Snelgrove
Jim Bradley
Arlyn Bradshaw
Michael Jensen
Aimee Winder Newton
Sam Granato
Max Burdick¹
Steven DeBry, Chair

Citizen Public Input ([1:36:41 PM](#))

Ms. Alexandra Eframo spoke under “Citizen Public Input,” stating she was sad to see Sheriff Winder go, and was disappointed in the Council for not giving him the funds he asked for to do his job.

Mr. Chuck Newton, former Council Member, South Jordan City, spoke under “Citizen Public Input” offering advice about the situation with County Recorder Gary Ott, as he has experience dealing with elderly people who have financial issues. First, the District Attorney’s Office should not be involved; it has a conflict. Another county attorney should investigate for elder abuse and conspiracy to defraud. Secondly, the County Council leadership should meet with the Governor’s Office and request a special legislative session in order to clarify the law to allow the County to move forward. Two legislative approaches that could be considered are to have all elected offices be under the governing body for rules regarding attendance, human resources, appointment of positions, etc. Another option would be to move all the independent elected official positions directly under the governing body, as they are in cities. That option would have to be voted on by the public.

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¹ Participated electronically.

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Review of New Hires ([1:46:36 PM](#))

Mr. David Delquadro, Chief Financial Manager, Council Office, reviewed the following proposed hires:

<u>Agency</u>	<u>Position</u>
<i>Sheriff's Office</i>	Corrections Specialist 11 Jail Assessment Specialist 10 Classification Specialist 11
<i>Aging & Adult Services Division</i>	Center Program Coordinator 13
<i>Salt Lake County Health Department</i>	Health Educator 14
<i>Mayor's Finance</i>	Office Coordinator 12
<i>Youth Services Division</i>	Accountant 15
<i>Information Services Division</i>	Server Administrator 16
<i>Criminal Justice Services Division</i>	Case Management Supervisor 15
<i>Parks & Recreation Division</i>	Recreation Program Coordinator 13

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Budget Adjustments ([1:46:59 PM](#))

Mr. David Delquadro, Chief Financial Manager, Council Office, reviewed the following budget adjustment requests:

District Attorney

Requesting an interim budget adjustment of \$15,498 to hire a time-limited Child and Family Specialist position for the Children's Justice Center. Funding will come from a Victims of Crime Act (VOCA) grant.

Requesting an interim budget adjustment of \$98,248 to start a Victim Services Program in Counseling Services. Funding will come from a Victims of Crime Act (VOCA) grant.

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Facilities Management Division

Requesting an interim budget adjustment of \$330,416 to combine the Emergency Operations Center HVAC Renovation Phase I and Chiller Phase II projects.

Requesting an interim budget adjustment of \$10,000 for excess costs associated with the slurry coating project for the Sheriff's Office. This will entail using under spent funds from the Oxbow Jail slurry coating project.

Requesting an interim budget adjustment of \$14,684 to redesign and retrofit magnetic door locks at the Metro Jail. This will entail using under spent funds from the Metro Jail elevator project.

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Parks and Recreation Division

Requesting an interim budget adjustment of \$90,000 for landscape improvements at the JL Sorenson Recreation Center. This will entail using available budget from the multi-purpose field project at the JL Sorenson Recreation Center.

Requesting an interim budget adjustment to shift \$71,500 among sub-projects or alter the scope of a sub-project in the Capital Renewal and Replacement project.

Requesting an interim budget adjustment of \$24,000 to repair existing parts of Parley's Trail. This will entail using funds from the Capital Expense Account budgeted to design and construct segments of Parley's Trail.

Council Member Jensen, seconded by Council Member Bradshaw, moved to approve the interim budget adjustment requests and forward them to the 4:00 p.m. Council meeting for formal consideration. The motion passed unanimously.

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Appointment of the Salt Lake County Board of Health ([1:49:25 PM](#))

Mayor Ben McAdams submitted a letter requesting the Council's advice and consent to the appointment of **Roderic Land** as a member of the Salt Lake County Board of Health to serve a three-year term. His term will begin July 1, 2017, and end June 30, 2020.

After a brief introduction about himself, the Council made the following motion:

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Council Member Jensen, seconded by Council Member Snelgrove, moved to approve the appointment and forward it to the 4:00 p.m. Council meeting for formal consideration. The motion passed unanimously.

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Economic Impact of the Sundance Film Festival ([1:51:38 PM](#))

Ms. Betsy Wallace, Managing Director, Sundance Institute, delivered a PowerPoint presentation relating to the economic impact of the 2017 Sundance Film Festival. The PowerPoint highlighted the mission of the Sundance Institute, the aggregate spending of festival attendees, return of investment, press coverage, digital presence, and the history of the festival.

Ms. Kara Cody, Sundance Institute, continued the PowerPoint presentation highlighting the artistic and cultural impact Sundance Institute has on Salt Lake County. She stated over 28,000 residents and students participate in locals-only programs sponsored through the Sundance Institute.

Ms. Wallace stated 45 percent of the film festival attendees actually see films in Salt Lake City. There were approximately 71,600 attendees at the 2017 film festival with 52 percent from out-of-state. Of the out-of-state attendees, 85 percent plan on returning to Utah within a year. Attendees spent \$144,995,766 during the festival.

Mr. Morgan Everett, Sundance Institute, stated Y2 Analytics conducted the research relating to the impact of the 2017 Sundance Film Festival. Data was collected using in-person surveys, an online survey, and a VIP survey. New technology provided a better handle on individuals attending the festival and the impact the festival has on Salt Lake County.

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County Resource Management Plan ([2:18:13 PM](#))

Mr. Wilf Sommerkorn, Regional Planner, Housing, and Economic Development Department, stated during the 2015 and 2016 legislative sessions, the State adopted a bill requiring all counties in Utah to develop a County Resource Management Plan and submit it to the State by August 1, 2017, for inclusion in the Statewide Management Plan for all public lands in Utah. A consultant was hired to gather all existing policies that relate to federal lands in Salt Lake County and compile that data into this document. This plan has been recommended for approval by the Mountinous Planning District Planning Commission and the Salt Lake County Planning Commission.

Council Member Jensen asked if this plan could be amended once the canyon's plan update is completed.

Mr. Sommerkorn stated yes, the plan can be amended.

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Mr. Max Johnson, Planner, Planning and Development Services Division, presented a timeline on how this plan was developed. He stated an RFP was issued in December of 2016. Elected officials throughout the County were asked to provide input through January. In February the public was invited to take an online survey, and an open house was held to receive additional input. Once the information was compiled, the plan was taken to the Mountainous Planning District Planning Commission and the Salt Lake County Planning Commission for review. A few changes were suggested, which have been incorporated into the plan, and both planning commissions recommended approval of the plan.

Council Member Bradley asked why the State wanted the management plan.

Mr. Sommerkorn stated it relates to who should manage public lands – the State of Utah or the federal government. The State has set up a department, on paper, as part of a demonstration, and it is prepared to manage federal lands. This plan will help to further that cause.

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Review of Planning and Zoning Applications ([2:26:52 PM](#))

Mr. Jason Rose, Legal Counsel, Council Office, reviewed the following planning and zoning applications, for which a public hearing will be set:

Application #30267 – **Salt Lake County** to amend the General Plan to include the County Resource Management Plan.

The purpose of this amendment is to add the County Resource Management Plan to the General Plan. The Utah Legislature passed legislation requiring counties to develop a Resource Management Plan. A public hearing will be held on July 11, 2017, at 4:00 p.m. in the Council Chambers to receive public input regarding the County Resource Management Plan.

Application #30253 – **Salt Lake County** to amend how the Mountainous Planning District Planning Commission members are chosen.

The purpose of this amendment is to change the way the Mountainous Planning District Planning Commission members are chosen. Currently, all nine members are chosen by the Mayor with the advice and consent of the County Council. This amendment allows for five members to be chosen by the County Mayor, with the remaining four members chosen using a list of recommendations submitted by either the cities of Salt Lake, Millcreek, Cottonwood Heights or Sandy. A public hearing will be held on July 11, 2017, at 4:00 p.m. in the Council Chambers to receive public input regarding this amendment.

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Application #30169 – Salt Lake County to clarify and update the County's Engineering ordinances.

The purpose of this amendment is to clarify and update the County's Engineering Ordinances by requiring GIS data be submitted for all developments approved through the County. This requirement will not have a large financial burden for developers, as most already provide this information. A public hearing will be held on August 1, 2017, at 4:00 p.m. in the Council Chambers to receive public input regarding this application.



Investigation of Salt Lake County Recorder Residency ([2:29:30 PM](#))

Mr. Jason Rose, Legal Counsel, Council Office, stated the conversation on an investigation of Gary Ott's residency needs to be done in an open session. If the Council starts to talk about County related litigation or the health or competency of an individual, it would be appropriate to close the meeting.

Council Member Bradshaw asked the District Attorney's Office to provide the Council with information as it related to the residency of elected officials and what options may be available to the Council.

Mr. Gavin Anderson, Deputy District Attorney, stated the Council has fairly broad powers to investigate any matter related to the County, its officials, or its business, including the power to require attendance of both witnesses and evidence by subpoena.

Residence for elected officials is set by state statute, and it starts out with provisions regarding residence for voters. If a person is a resident of a voting precinct, and that precinct is located within the County or is in a district of some kind, that is the evidence or condition under which the question of residency is examined. Residency for both voter and candidate purposes is a combination of two factors - location and intent. The Utah Election Code says that a person does not lose their residence unless they intend to move, and if there is not intent, then the old residence applies, theoretically forever. A person does not lose residency or residential intent by going abroad, going to the military, being imprisoned, or any kind of situation that might take them away from their home for years or decades as long as they retain the intent to eventually go home.

There is quite a bit of information in both statute and case law regarding the kind of factors that can prove or disprove intent to relocate, including some fairly objective forms of evidence, such as official documents, i.e. a driver's license, auto registration, income taxes, property tax, or residential property exemption. Other factors include family matters, such as where the family or children reside or where they attend school. Those records may be from a church or fraternal organization, school records, bank records, credit card documents, medical records, and again official documents, or even a phone book. Then, Utah law says if there is a reasonable contest between two residences, the one established first in time might be a controlling factor. So

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contesting the residency of an elected official would basically involve a process for gathering information of those kinds of records and showing where location is. However, proving intent is a different matter. The courts grant significant deference to what the person says his or her intent is. In a case where there is a disability, it is difficult to say what deference the court might give to a person's expression of intent.

Council Member Bradshaw asked if there was any case law in Utah where an elected official was ruled by the court to have lost their residency.

Mr. Anderson stated he could not think of a reported case in the appellate courts, but there have been some cases in district courts. An issue in Alta that went to the Third District Court was a matter of analyzing the evidence provided. In that case, the evidence overwhelmingly proved the person did not have a significant connection with Alta.

Council Member Bradshaw asked if the Council wanted to exercise its subpoena power for some of those records, how specific it needed to be in a motion, or if it could be broad on any records related to residency.

Mr. Anderson stated it could do either. The District Attorney's Office would be able to help draft specific language in a subpoena, and it could be specific or broad.

Council Member DeBry asked if the Council could subpoena people for testimony and records.

Mr. Anderson stated that is correct, but proving intent is the difficult issue.

Council Member Jensen asked if the courts could derive that someone had the intent to relocate based on a preponderance of evidence, how it could be proven that was no longer the intent of the person if they were no longer in a position to state that intent.

Mr. Anderson stated witnesses could be brought in who might have heard the individual express intent to move or dissatisfaction with the area, or satisfaction with where they were at. For example, a witness could testify they heard the individual say, "I love it up here so much, I am never going to move away." However, to prove or disprove intent is a very difficult process. The only way it can be proven with objective evidence is if there is a mountain of evidence showing a connection to a location, or a dearth of evidence showing no connection. Intent to relocate residency would have to be shown. The question with Mr. Ott is whether he intended to move his residence from Sugarhouse to North Ogden, but now may not have the mental capacity to form that residential intent. That falls back on the statute that says an individual does not lose their old residence until they gain a new residence by combination of location and intent.

Mr. Sim Gill, District Attorney, stated under a most pristine case, the original actor could be asked what their intent is, and it is that expression of intent that is most convincing. Even though there may be a mountain of evidence showing an individual lives elsewhere, that individual can always contradict it saying their intent had always been here. He

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did not know what value could be attributed to a person's expression of intent if their capacity was compromised. They have to be able to express intent. Until that individual expresses intent, their old residence is their residence.

Council Member Newton asked if in the event the Council subpoenaed Mr. Ott to look into the residency issue, but he was not able to adequately communicate what his intent was, if someone could speak for him. In other words, she asked if an appointed guardian for him would be able to state that intent.

Mr. Anderson stated a legal proceeding has transpired in district court to have a guardian or conservator appointed for Mr. Ott. Depending on the order, a guardian can do any and all lawful acts of the subject of the guardianship, including express residential intent or express other kinds of legal decisions or status.

Council Member Snelgrove stated three family members have stepped forward and taken Mr. Ott under their wing to give him the proper care and attention he needs. Since Mr. Ott is in a condition of diminished mental capacity and is not in a position to speak on his own health in terms of intent, they will be the ones who will speak on his behalf. Their counsel or the judge will determine who the spokesperson will be.

Mr. Gill stated it is his understanding that family members have petitioned on behalf of Mr. Ott. However, that is a preliminary filing; a final order is not in place. A lot of the records are under seal. Once that appointment is made, the District Attorney's Office will take appropriate action consistent with the rulings from the court.

Council Member DeBry asked if Mr. Ott could refuse to obey a subpoena and give testimony, or if he would be compelled to testify.

Mr. Anderson stated he could be compelled. Anyone can disregard a subpoena, but they do so at risk of whatever penalties apply to the situation. Mr. Ott could not decline to respond to a subpoena based on the Fifth Amendment, for example, because this was not a criminal case. His life, liberty, and property are not endangered.

Council Member DeBry asked how the District Attorney's Office would bifurcate its responsibilities to the County if the Recorder challenged something.

Mr. Gill stated the District Attorney's Office takes very seriously the integrity of each independent elected official and their internal function and day-to-day operation, and it has segregated a team of individuals to maintain attorney client relationships for the operation and day-to-day functions of that independent elected official. If a situation rises to the level of litigation, the District Attorney's Office will seek outside counsel for that independent elected. The District Attorney's primary responsibility is to defend and protect the County, while ensuring the due process rights of everybody else are protected where appropriate.

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Council Member DeBry asked if the Council would be the investigative committee or if it could delegate others to form an investigative committee and have that committee take directions from the Council.

Mr. Gill stated the Council could be the primary investigative committee if it chose to do so, or it could delegate that responsibility and oversee the investigation.

Mr. Anderson stated the District Attorney's Office can express some options to the Council on how to draft a process, including either a sub-committee of the Council or someone else.

Council Member DeBry stated Council leadership can get with the District Attorney's Office to discuss that; then ask for the remaining Council Members' input.

Council Member Bradley asked what the investigative committee was going to explore.

Council Member DeBry stated it would explore the residency of Mr. Ott.

Council Member Bradshaw stated the reason residency has risen to the topic of conversation is because the Recorder has not been residing in the County, as indicated by reports in the media. Also, from what has been described, a savvy individual could be elected by one constituency, but live elsewhere provided they kept their documents in order and knew what to say. Therefore, he felt the Council had an additional responsibility to clarify residency going forward using the establishment of case law. He was concerned about Mr. Ott's well-being, but additionally concerned for the integrity of the County, tax administration system, and residents.

Council Member Snelgrove, seconded by Council Member Bradshaw, moved that the Council convene a committee for the purpose of doing investigative research using the subpoena power of the Salt Lake County Council, and other avenues the investigation may take it, to establish the residency of the County Recorder Gary Ott, the composition of which will be defined in concert with the Council Chair and the District Attorney's Office.

Council Member Snelgrove stated other things may come to the attention of the Council in the course of the committee's investigation, which may or may not warrant further investigation by the proper legal authorities.

Council Member DeBry stated that struck as Garrity to him. He asked if the committee could continue with its investigation if something else came up or if it had to be specific about residency.

Mr. Anderson stated the Garrity Rule (which protects an employee from answering questions that might incriminate themselves) allows for an employer to ask an employee questions, which they have to answer, but also requires that the employer inform the

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employee their answers cannot be used for criminal charge purposes. That is on a case by case basis.

Mr. Gill stated the District Attorney's Office will be mindful to make sure any criminal issues are kept separate from the investigation of residency, which is a civil process. The purpose of garrity is to get the truth from an individual while protecting them. It does not mean the truth cannot be used against a third person.

Council Member DeBry asked if the committee's scope was strictly residency.

Mr. Gill stated the scope is to investigate the residency requirements under statute and utilize the Council's subpoena power to compel for the purpose of establishing residency.

Council Member DeBry stated everyone was concerned about Mr. Ott's well-being, and while his office is functioning appropriately as it should, the citizens of the County need closure to this ongoing soap opera saga.

Council Member Jensen stated he hoped everyone would keep in mind that Mr. Ott has given the County two decades of his time.

Council Member Wilson stated she was confident Mr. Ott could resign and be in a good position financially through the retirement system. It is time to get this resolved, and collectively come up with the next step.

Council Member Snelgrove, seconded by Council Member Bradshaw, moved that the Council convene a committee for the purpose of doing investigative research using the subpoena power of the Salt Lake County Council, and other avenues the investigation may take it, to establish the residency of the County Recorder Gary Ott, the composition of which will be defined in concert with the Council Chair and the District Attorney's Office. Roll was called showing the votes to be Council Member Bradley "Aye," Council Member Bradshaw "Aye," Council Member Wilson "Aye," Council Member Granato "Aye," Council Member Snelgrove "Aye," Council Member Jensen "Aye," Council Member Newton "Aye," Council Member Burdick "Aye," and Council Member DeBry "Aye."

Council Member Burdick asked if the Council wanted to discuss the Recorder's budget at this time.

Mr. Rose stated that issue exceeds the scope of the agenda item. The Council could identify members of the sub-committee.

Council Member Wilson stated it would be good to have a member from each of the parties and the chair on the sub-committee. She would like Council Member Bradshaw to be on the sub-committee.

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Council Member Burdick volunteered to be on the sub-committee.

Council Member Wilson, seconded by Council Member Granato, moved that the composition of the investigative committee include Council Members Bradshaw, Burdick, and DeBry. The motion passed unanimously.

Council Member Jensen asked that a system be set up so the sub-committee could update the rest of the Council Members on its findings.

Council Member DeBry stated he wanted to make sure that Council Members were updated as quickly as possible, but that doing so did not compromise the investigation.

Council Member Jensen stated the committee could work through Jason Rose and the District Attorney's Office in order to feel comfortable how to disseminate that information.

Mr. Gill stated nothing would preclude the committee members from sharing what is going on with the rest of the Council Members. If there is official documentation, then the District Attorney's Office can recommend a formal protocol in terms of generating documents, subpoenas, and follow-ups.

Mr. Anderson stated based on the District Attorney's Office to maintain attorney client privileges, it would be better if that communication was done through Mr. Rose, rather than the District Attorney's Office.

Council Member Jensen, seconded by Council Member Bradshaw, moved that the investigative committee keep the Council updated, but that the communication come through Jason Rose, Legal Counsel, Council Office. The motion passed unanimously.

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CONSENT AGENDA ([2:29:13 PM](#))

Mayor Ben McAdams submitted a letter requesting the Council's advice and consent to the appointment of **Kristie Steadman Overson** as a member of the Tourism, Recreation, Cultural, and Convention (TRCC) Advisory Board.

Council Member Bradshaw, seconded by Council Member Jensen, moved to approve the appointment and forward it to the 4:00 p.m. Council meeting for formal consideration. The motion passed unanimously.

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Resolutions

The Council reviewed the following resolutions. The resolutions authorizing execution of interlocal agreements have been placed on the Council agenda for final approval and execution:

1) The formation of a consortium with the *cities of Sandy, South Jordan, West Jordan, West Valley, and Taylorsville* to receive HOME funds and to participate in the HOME Investment Partnership Program for Fiscal Years 2018-2020.

2) *Cottonwood Heights Parks and Recreation Service Area* regarding funding from the \$90 million recreation bond to renovate the outdoor locker rooms, outdoor diving pool, including appurtenant equipment, and diving tower at the Cottonwood Heights' pool.

3) *University of Utah* regarding funding from the Tourism, Recreation, Cultural and Convention (TRCC) Fund for two projects at the Natural History Museum of Utah: 1) improvements to the environment of the outdoor terraces on the south side of the museum, and 2) enhancement of the acoustic environment in the museum's primary indoor gather space known as the Canyon. The University of Utah will make a matching contribution toward the purpose.

4) *Midvale City* regarding funding for repairs to the rock lined flood control channel of the Bingham Junction Channel.

Council Member Bradshaw, seconded by Council Member Jensen, moved to approve the resolutions and forward them to the 4:00 p.m. Council meeting for formal consideration. The motion passed unanimously.

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Real Estate Matter

The Council reviewed the following real estate matter, which has been placed on the 4:00 p.m. Council agenda for formal consideration:

Set Hearing for July 18, 2015

To consider a proposed land trade with South Jordan City.

Council Member Bradshaw, seconded by Council Member Jensen, moved to approve the real estate matter and forward it to the 4:00 p.m. Council meeting for formal consideration. The motion passed unanimously.

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Tax Matters

The Council reviewed the tax matters, which have been placed on the Council agenda for final approval and execution.

Council Member Bradshaw, seconded by Council Member Jensen, moved to approve the tax matters and forward them to the 4:00 p.m. Council meeting for formal consideration. The motion passed unanimously.

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Declaration of Gift

The Council reviewed the following gift to Salt Lake County. The Declaration of Gift form has been placed on the Council agenda for final approval and execution:

Aging and Adult Services Division

Stampin Up has offered to donate craft kits and supplies to be used at the Riverton Senior Center.

Council Member Bradshaw, seconded by Council Member Jensen, moved to approve the recommendation and forward it to the 4:00 p.m. Council meeting for formal consideration, finding the County received fair and adequate consideration for the contribution. The motion passed unanimously.

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Other Business ([1:36:41 PM](#); [2:29:13 PM](#))

Condolences

Council Member DeBry expressed condolences to Kevin Jacobs, County Assessor, whose mother passed away.

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Announcement

Council Member DeBry stated Brian Maxwell, his senior policy advisor, will be leaving Salt Lake County employment, as of July 7, 2017, to pursue other things.

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Approval of Minutes

Council Member Bradshaw, seconded by Council Member Jensen, moved to approve the Committee of the Whole minutes for Tuesday, June 13, 2017. The motion passed unanimously.

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Cancellation of Meetings

Council Member Bradshaw, seconded by Council Member Jensen, moved to cancel the Committee of the Whole meetings for Tuesday, July 4, 2017, and Tuesday, July 25, 2017. The motion passed unanimously.

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The meeting adjourned at [3:07:03 PM](#).

Chair, Committee of the Whole

Deputy Clerk

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