

# RICHLAND COUNTY COUNCIL

## SOUTH CAROLINA

### REGULAR SESSION MEETING

March 21, 2017  
6:00 PM  
County Council Chambers

*In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building*

#### CALL TO ORDER

Ms. Dickerson called the meeting to order at approximately 6:00 PM

#### INVOCATION

The Invocation was led by the Honorable Jim Manning.

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Boy Scout Troop 8 from the Lutheran Incarnation Church on Devine Street.

#### APPROVAL OF MINUTES

**Regular Session: March 7, 2017** – Mr. Livingston moved, seconded by Mr. Malinowski, to approve the minutes as distributed. The vote in favor was unanimous.

#### ADOPTION OF AGENDA

Mr. Seals stated there are no changes, but will indicate that the Matrix organization that conducted the Recreation Commission audit has requested an opportunity to improve its document. They have stated the document will be finalized on March 24<sup>th</sup>.

Mr. Pearce moved, seconded by Ms. Myers, to adopt the agenda as published. The vote in favor was unanimous.

#### REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION

Mr. Smith stated the following items were potential Executive Session Items:

- a. **Contractual Matter: PDT Contract** – Mr. Livingston moved, seconded by Ms. Myers, to defer this item to the April 4, 2017 Council meeting in order to receive additional information.



#### Committee Members Present

Joyce Dickerson, Chair  
Bill Malinowski, Vice Chair  
Calvin "Chip" Jackson  
Norman Jackson  
Gwendolyn Davis Kennedy  
Paul Livingston  
Jim Manning  
Yvonne McBride  
Dalhi Myers  
Greg Pearce  
Seth Rose

#### Others Present:

Gerald Seals  
Kimberly Roberts  
Michelle Onley  
Brandon Madden  
Larry Smith  
Ismail Ozbek  
Beverly Harris  
Laura Renwick  
Janelle Ellis  
Kevin Bronson  
Tracy Hegler  
Sandra Yudice  
Shahid Khan  
Daniel Driggers  
Dwight Hanna  
Michael King  
Rob Perry  
Arthur Braswell

- b. Jones vs. Richland County**
- c. Contractual Matter: Project DT**

### **EXECUTIVE SESSION**

*Council went into Executive Session at approximately 6:07 p.m.  
and came out at approximately 6:27 p.m.*

- a. Jones vs. Richland County** – Mr. Pearce moved, seconded by N. Jackson, to direct staff to proceed as discussed in Executive Session. The vote in favor was unanimous.

Mr. Manning moved, seconded by Mr. N. Jackson, to reconsider this item. The motion failed.

### **CITIZENS' INPUT (For Items on the Agenda Not Requiring a Public Hearing)**

No one signed up to speak.

### **REPORT OF THE COUNTY ADMINISTRATOR**

- a. Richland County Recreation Commission Audit Update** – Mr. Seals stated he was scheduled to provide a brief report concerning the Recreation Commission audit. Workshops were held wherein Council was been provided a copy of the report and debriefed on the content of the report. Typically, there is a wrap-up discussion about the quality and content of the report. There were some quality issues with the report that were communicated to the President of the consultant company. The President has requested an opportunity to correct the deficiencies.

Mr. Livingston requested any changes to the report be clearly identified.

Ms. Myers inquired if the changes to the audit will be material changes and therefore, Council should wait to make decisions.

Mr. Seals stated he does not believe it will change the substance of the audit. In the debriefing, the principal mentioned there was dysfunction in the Recreation Commission as it is currently operating; however, in the document there was an effort to sanitize the statement. It was pointed out to the consultant you cannot say one thing to Council and then have a document that uses language that is confusing.

Mr. Manning moved to release the money based on his reading of the document and attendance at the debriefing.

Mr. N. Jackson stated the funding has been withheld from the Recreation Commission and his understanding of the motion was that as soon as Council received the audit the funds were to be

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released. The fees are going up and the kids are threatened with not having afterschool programs because the money is being withheld.

Mr. Manning moved, seconded by Mr. N. Jackson, to release the funding the Council withheld pending the outcome of the audit for the Richland County Recreation Commission.

Mr. Malinowski requested the parliamentarian indicate if the motion is properly before Council. If it is properly before Council, should it be taken up under the Report of the Administrator or elsewhere on the agenda?

Mr. Smith stated normally the Report of the County Administrator is a report and Council does not traditionally does not take action. Council will need to take action consistent with the motion that was previously made in order to release the funds. It's unclear from the budget motion Mr. Manning referred to when Council intended to take action or how Council planned to release the funds, which is part of the problem with the motion. Therefore, it is not properly before Council at this point on the agenda.

Mr. N. Jackson inquired at what point or when would the motion be appropriate because the motion to freeze funds is as follows: "immediately as the audit is presented to Council the funds should be released." There are no conditions. He does not want to wait another 2 weeks to a month and the children are suffering because we are not sure when to release the funds.

Mr. Smith stated as he understands the motion that was made when the funds were frozen, Council was going to revisit the issue once the audit was completed. Based upon what Mr. Seals has said, I'm not sure that has occurred since there is a revision forthcoming.

Mr. N. Jackson stated he is going by the motion made on June 9, 2016. It did not say anything about a continuation. It says as long as the audit is presented to Council, the funds will be released. Was the audit incomplete or was the audit complete, but changes need to be made to the audit?

Mr. Seals stated the audit was submitted as final. Staff has not asked for changes. The consultant has said they need to make changes; therefore, staff has inquired when the changes would be made. The date provided to staff was March 24<sup>th</sup>.

Staff has attempted to convey what happened, which is a final document was submitted. The auditor has requested an opportunity to correct the document. That action normally suffices as it's not complete. Council will make the final call.

Mr. N. Jackson stated Council received a final document and had workshops based upon that document. He has a problem with the auditor wanting to make changes to the final document. The funds have been withheld now for 9 months and the children are suffering.

Mr. Seals does not feel it is appropriate for staff to weigh in on the debate in terms of a policy decision for the distribution of these funds. Staff is sharing what has happened with the audit

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document. The auditor has indicated the document is flawed and the corrected report will be available on March 24<sup>th</sup>.

Mr. Livingston suggested an intergovernmental agreement based on the funds beyond the 5 mills.

Mr. Pearce stated to release the funds without attempting to implement some of the audit recommendations seems to be premature. It seems to him that releasing the funds would require a budget amendment since the 5 mills were passed during the budget process.

Mr. Smith stated it would be his opinion to go pass the 5 mills would require a budget amendment.

Mr. Driggers stated he would defer to the County Administrator, but as he reflects on what was approved at budget, the dollar value that was approved was the total value. If the number of mills being provided to them is more, it is certainly appropriate to do a budget amendment.

Mr. C. Jackson stated he did not interpret the workshop he attended to represent a final audit that could not be changed. He interpreted his attendance at the workshop as receiving a report and therefore, giving his feedback. Then based up the feedback, whatever appropriate modifications would be made.

In addition, Mr. C. Jackson is not certain what legal authority Council has with regards to the findings and the recommendations included in the audit. Council does not have the authority to implement many of the findings, but will be deferred to other agencies for implementation. Nothing he read would require holding up funds, at this point, for students who are participating particularly in the afterschool program. Therefore, he hopes Council will consider making a contingency motion or recommendation, while awaiting the final audit report, which will allow the continuation of the programs. Once the audit is received, there are bigger issues to be addressed if Council wants to pursue authority or oversight of the Recreation Commission.

Mr. Manning stated he would like to make a substitute motion or remove his initial motion. Based on the discussion, there is merit to drafting a MOU or IGA; there is the issue of the report being substantially completed due to grammatical/spelling errors and the tone of the language contained in the report. His clear understanding was that the budget was passed, but a portion was held. It is his belief it should not require a budget amendment and public hearing to release the funds that were held.

Mr. Manning made a substitute motion, seconded by Mr. N. Jackson, to hold a Special Called meeting on March 28<sup>th</sup> immediately following the Zoning Public Hearing. Council will have the final document at that time and Administration can begin drafting a MOU/IGA based upon the audit report.

**POINT OF ORDER** – Mr. Malinowski stated the parliamentarian said motions were not appropriate at this point and time.

Mr. Smith stated Council members can direct the Administrator to bring items back to Council as a result of his report. (i.e. Council members can direct the Administrator to bring back to Council a MOU based upon the discussion.)

Mr. N. Jackson agrees with Mr. Manning. The budget was approved. The motion was to freeze any amount of money above the 5 mills until Council received an audit report. It did not say Council would take action based upon the report. As long as the report said the funds were used for its purpose, the funds were to be released.

Mr. Rose stated personally he would like to see some of the things addressed in the audit report to be included in the MOU. He would also like to see the funds released, but he does not want the findings of the audit to be ignored.

Ms. Dickerson scheduled a Special Called meeting on March 28<sup>th</sup> immediately following the Zoning Public Hearing. The completed document, as well as, a MOU should be available for Council's review.

### **REPORT OF THE CLERK OF COUNCIL**

- a. **Reminder: "Move to Excellence" Richland County Legislative Night Out, March 22, 2017, 5:30 – 7:30 PM, Convention Center** – Ms. Onley reminded Council about the upcoming Richland County Legislative Night Out.
- b. **Reminder: Economic Development Overview, March 29, 2017, 12:00 noon, 4<sup>th</sup> Floor Conference Room** – Ms. Onley reminded Council of the upcoming Economic Development Overview hosted by the Economic Development Department.

### **REPORT OF THE CHAIR**

- a. **CASA Conference Update** – Ms. Dickerson stated Mr. C. Jackson, Mr. Manning and herself participated in the CASA National Convention. She was overwhelmed with the number of children Richland County CASA has been able to assist. At the next Council meeting, she plans to honor the organization.
- b. **Council Workshop Update** – Ms. Dickerson thanked Mr. Seals and staff for their assistance on the Council workshop.

### **OPEN/CLOSE PUBLIC HEARINGS**

- **An Ordinance authorizing deed to the Columbia Automotive Company, LLC for .4312 Acres previously a portion of Terramont Drive, a public road, which was closed by order of the court** – No one signed up to speak.

### **APPROVAL OF CONSENT ITEMS**

- **16-041MA, Robert R. Fuller, RU to OI (10.38 Acres), Clemson Road, R20200-03-45 [THIRD READING]** – Mr. Livingston moved, seconded by Mr. Malinowski, to approve this item.

**FOR**

**AGAINST**

Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Manning  
Myers  
McBride

The vote in favor was unanimous.

**■ 16-045MA, Johnathan L. Yates, PDD to PDD (40.01 Acres), 200 Summit Parkway, R23011-01-01 [THIRD READING]**

**FOR**

**AGAINST**

Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Manning  
Myers  
McBride

The vote in favor was unanimous.

**THIRD READING**

**16-036MA, Jeff Stallings, PDD to GC (20 Acres), 8000 Wilson Boulevard, 14400-01-03 & 14402-03-01** – Ms. Kennedy moved, seconded by Mr. Malinowski, to defer this item until the April 4<sup>th</sup> Council meeting. The vote in favor was unanimous.

**An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; so as to restructure the departments of the County** – Ms. Myers moved, seconded by Mr. Livingston, to approve this item.

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Mr. Malinowski inquired about the following language in **Sec. 2-100. Settlement of Claims**: *"The county attorney shall have the sole discretion to decide whether to file an appeal or to waive the filing of same..."*

Previously there was an amount notated, but it has been struck through in the amended ordinance. It is his belief an amount should still be included and anything over a certain amount should be brought back to Council.

In addition, Mr. Malinowski inquired about the following language in **Section 2-138 (5) Emergency 911 Communications (b)(2) E911 Service fee, billing and collection**: *"A monthly charge shall be levied upon each local exchange access facility subscribed to by telephone subscribers whose local exchange access lines are in the area served by or which would be served by the 911 service and/or system..."*

Mr. Malinowski stated with the onset of cell phones there are many homes that do not have landlines that fees can be accessed on. He receives call from individuals that reside in the area, but have out of town area codes. Is there a way to implement a fee on all residences since there is typically a means of communication accessible at each residence?

Mr. Livingston stated he feels there are still too many direct reports to the County Administrator.

Mr. Smith stated the paragraph proceeding Mr. Malinowski's comments includes the following language: *"The county attorney shall have the authority to settle and approve payment of lawsuits, up to an amount approved by County Council in the annual budget..."* Council will set the amount on an annual basis, as to what level of authority the county attorney can approve claims and settlements. The specific amount was taken out of the section to allow Council to give direction on an annual basis. If the number were to change then there would have to be three (3) readings and public hearing each time the amount changed. On the issue of filing an appeal, Council can indicate, at any point and time, if they want the county attorney to appeal or not appeal a specific situation.

Mr. Malinowski stated Council would not necessarily know if there is an opportunity to file an appeal if the county attorney settles a claim, or not settled a claim, with someone based on the dollar figure given. Therefore, language should be included in the ordinance that addresses that matter.

Mr. Seals addressed Mr. Malinowski's comments regarding the 911 Communications fee. Staff is working on this matter and will be taken up during budget discussions.

Ms. Myers stated the educational standards requested for all of the director level reports is still at the discretion of the Administrator. She will work with the Administrator's Office regarding this matter.

Mr. Manning moved, seconded by Mr. Malinowski, to defer this item until the April 4<sup>th</sup> Council meeting.

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**FOR**

Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Kennedy  
Manning  
McBride

**AGAINST**

Livingston  
Myers

The vote was in favor.

Mr. Rose stated according to the chart in the agenda packet, it is recommended CASA remain under the Administrator. He inquired if the CASA attorneys are County employees.

Mr. Smith stated the 4 or 5 attorneys primarily represent the children.

Mr. Rose stated any attorney that works for Richland County should report to the county attorney. His suggestion would be to move the CASA attorneys under the county attorney's office.

Mr. C. Jackson finds it troubling that Council members are unable to attend workshops and then attempt to make last minute changes. He requested a companion document that outlines the changes.

**SECOND READING**

**An Ordinance authorizing deed to the Columbia Automotive Company, LLC for .4312 Acres previously a portion of Terramont Drive, a public road, which was closed by order of the court – Ms. Myers moved, seconded by Mr. Manning, to approve this item for Second Reading. The vote in favor was unanimous.**

**An Ordinance amending the Fiscal Year 2016-2017 Hospitality Tax Fund Annual Budget to appropriate \$200,000 of Hospitality Fund Balance to the SC Military Support Foundation to assist in funding for advertisement and promotion of the 2017 South Carolina Guard Air & Ground Expo – Ms. Myers moved, seconded by Mr. Rose, to approve this item for Second Reading.**

Mr. Malinowski requested a friendly amendment to amend the language as follows: *"Hospitality Tax Fund Annual Budget to appropriate up to \$200,000"*.

Ms. Myers accepted the friendly amendment.

Mr. Livingston inquired if the County will receive a report on this event like any other Hospitality Tax funded programs.

Mr. Seals stated the County will receive a report.

The vote in favor was unanimous.

**An Ordinance authorizing a deed to Vulcan Lands, Inc. for 72± Acres on Caughman Road North, in Richland County, which is a portion of TMS # 06500-01-01** – Mr. Malinowski moved, seconded by Ms. Myers, to defer this item until the April 4<sup>th</sup> Council meeting to receive additional information.

Ms. Dickerson stated a discussion took place in the Horizon meeting regarding the additional information requested. A decision was made that if the information was not received prior to the meeting, the item would be deferred. Information cannot be received at the meeting and Council be expected to make an educated decision.

Mr. Manning feels that when information is requested and is not received then there should be an explanation given as to why the information was not provided.

The vote in favor was unanimous.

### **REPORT OF THE BLUE RIBBON AD HOC COMMITTEE**

Mr. Pearce stated there has been some transitioning taking place in the committee. Mr. Bronson was staffing the committee and did a wonderful job. Under the reorganization, Ms. Hegler has taken over staffing of the committee and the transition has been seamless.

- a. HMGP Hurricane Matthew Project Priorities** – Mr. Pearce stated the committee received an update on the priorities and projects with the HMGP Program. The funding has not been released to date. The Federal government has complimented the county on their response and in fact has adopted some of the procedures as best practices in other areas of the country.
- b. Proposed Richland County HMGP Hurricane Matthew Projects** – Mr. Pearce stated there was additional HMGP Grant Program funding made available due to the 2016 Hurricane Matthew event. Staff felt applying for the additional funding could not hurt the County.

The committee forwarded a recommendation to approve six (6) priority projects. The projects are listed in the agenda packet.

Mr. Malinowski inquired if there are six (6) or seven (7) project categories.

Ms. Hegler stated there were seven (7) recommendations to the committee, but the committee removed one of the recommendations.

The vote in favor was unanimous.

- c. Continuation of Recovery Consultancy Services** – Mr. Pearce stated the committee was presented a request for the continuation of the recovery consultancy services of Tetra Tech through December 31, 2017.

The committee forwarded a recommendation to approve the continuation of the services of Tetra Tech through December 31, 2017.

Mr. Malinowski inquired if the County will be reimbursed any of the costs of Tetra Tech's services.

Ms. Hegler stated HMGP will not reimburse the County.

Mr. N. Jackson inquired how much additional funds are being requested.

Ms. Hegler stated the cost will be \$250,000 to assist in administering the HMGP funds.

Mr. N. Jackson inquired if this is the company that was paid \$1.5 million to assist with cleanup.

Ms. Hegler stated Tetra Tech has been assisting the County, but she is not sure of the total amount.

The vote in favor was unanimous.

Mr. Pearce moved, seconded by Mr. Malinowski, to reconsider this item. The motion failed.

### **THE TRANSPORTATION AD HOC COMMITTEE**

- a. **Broad River Road Widening Project** – Mr. Manning stated the Transportation Ad Hoc Committee and TPAC concurred with staff's recommendation to move forward with Alternate C typical and reduce the project limits. The revised limits would be from Royal Tower Road to the intersection of Broad River Road and Dutch Fork Road. The revisions are based upon public comment and current project cost estimates. Should the SCDOT, Central Midlands Council of Governments or another funding source be secured for the project then those funds would extend the project along Dutch Fork Road.

Ms. Myers stated the notes section is confusing because on p. 150 of the agenda the cost is cited as \$29 million, and then on p. 151 the estimated cost is cited as \$37.6 million with the proposed reduction of the project limits.

Mr. Perry stated the original referendum presented to voters in 2012 had cost estimates for all 14 widenings. The original referendum had \$29 million, so even with reducing the project the updated cost estimate is \$37 million. There is a total of \$276 million for all 14 widenings.

Ms. Myers stated Mr. Perry's response raises another question, does this mean funding is being shaved from other projects to cover the costs. Therefore, there may not be available funding for the other projects.

Mr. Perry stated that could happen, which is why the County continues to look for TIGER Grant and COG funds.

Ms. Myers inquired if at some point the County is going to look at rationalizing what projects are important.

Mr. Perry stated the way he has discussed this matter in other settings is we can cost constrain bikeway projects or greenway projects, but when you get to the widening projects or intersection improvements you have to deal with what is found.

Mr. Malinowski inquired if the dirt road paving funding separate from the widening projects.

Mr. Perry answered in the affirmative.

Mr. N. Jackson inquired if the funds will be reimbursed or additional funds will be allocated to the programs related to the STIP.

Mr. Perry stated if they are Federal funds it would be through reimbursement, but if CTC funds are acquired they are not.

Mr. C. Jackson inquired if he is tracking projects that have been completed to see if they exceeded the estimates or came in under budget, and by how much.

Mr. Perry stated there was a 2-3 page summary that was included in the Administrator's Report and was presented to TPAC members a few weeks ago. Once the County Transportation Improvement Program (CTIP) has been updated, it should be presented to Council either through the Transportation Ad Hoc Committee or a Council work session.

Ms. Myers requested to meet with the Administrator and Mr. Perry in the next week to discuss this further.

Mr. Manning stated a major part of the Transportation Penny was getting bonds. He then inquired if the County had gotten all the bonds and maximized on those bonds to pay for the projects.

Mr. Perry responded the County had not gotten all the bonds. The County issued a \$50 million bond anticipation note (BAN) in 2013. The second question on the referendum allowed the County to bond up to \$450 million. The intent is to get ahead of construction inflation.

The vote in favor was unanimous.

**CITIZENS' INPUT  
(Must Pertain to Items Not on the Agenda)**

Mr. Toney Forrester continued his "story" from the previous Council meetings.

**EXECUTIVE SESSION**

*Council went into Executive Session at approximately 7:48 p.m.  
and came out at approximately 7:59 p.m.*

- a. **Contractual Matter: Project DT** – Mr. Livingston moved, seconded by Mr. Malinowski, to accept this item as information. The vote in favor was unanimous.

### **MOTION PERIOD**

- a. **Based on the mission of the Conservation Commission, I move that the Rowing Club and Historic Columbia be placed under management of the Conservation Commission [N. JACKSON and MALINOWSKI]** – This item was referred to the A&F Committee.
- b. **As the audit is completed, I move that the funds withheld by Richland County be released immediately to the Recreation Commission. We are in the ninth month, three quarters of the way through the budget cycle, and programs are being delayed or may soon be cancelled. The citizens and children need the programs to continue without interruption [N. JACKSON]** – This item was referred to the March 28<sup>th</sup> Special Called Meeting.
- c. **Due to the many unfunded mandates imposed on Richland County by the state and the additional amounts to be imposed due to the state's improper handling of the pension system I am making the following motion: Have the Chair instruct the Consolidation and Privatization Committee to meet immediately in an effort to determine where savings can possibly be obtained through use of privatization [MALINOWSKI]** – This item was referred to the Consolidation and Privatization Ad Hoc Committee.
- d. **Resolution honoring Kendra Dove's contribution to the CASA organization [DICKERSON]** – Mr. Livingston moved, seconded by Ms. Myers, to adopt a resolution honoring Ms. Kendra Dove. The vote in favor was unanimous.
- e. **Explore City of Columbia parking meter options for County Council members [DICKERSON]** – This item was referred to the A&F Committee.

(The County Administrator stated he could assist the Clerk's Office with obtaining cards for Councilmembers.)

- f. **Move for a resolution requesting the legislature and legislative delegation turn over legal authority of the Richland County Recreation Commission and the Richland County Election Commission to County Council and local government [ROSE and MYERS]** – Mr. Rose moved, seconded by Mr. Malinowski, to adopt a resolution requesting the legislature and legislative delegation turn over legal authority of the Richland County Recreation Commission and Richland County Election Commission to County Council. The vote in favor was unanimous.

### **ADJOURNMENT**

The meeting adjourned at approximately 8:05 PM.

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Joyce Dickerson, Chair

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Bill Malinowski, Vice-Chair

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Calvin "Chip" Jackson

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Norman Jackson

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Gwendolyn Kennedy

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Paul Livingston

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Jim Manning

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Yvonne McBride

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Dahli Myers

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Greg Pearce

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Seth Rose

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council