

Erda City Council Minutes

12/30/2021 – 7:00 pm

Tooele County Building - Auditorium

You may join in person or via Google Meet link: <https://meet.google.com/fzv-ggou-voc>

1. Call to Order
2. Roll Call
 - a. Scott Droubay attending via phone
 - b. Terry Miner, Kael Martin, Jess Bird and Craig Smith all present
3. Pledge
4. Interim Budget
 - a. Jess: We are moving things around on the agenda. We need to pass an interim budget for 6 months rather than 12 months. When we move onto other parts of the meeting, he can continue to work on an executive summary. Jess: I have several changes. Everybody should have input. Anybody who wants to object or give input, please do it. Changes will apply to 6 month budget. Jess: Line 51 (Legal Counsel) currently at \$25,000 for the first 6 months. I propose it should be \$40,000 for now. Craig: That seems reasonable because the first 6 months will be more expensive. Some of those initial start up costs should go towards that. Jess: Line 53 (County) What is line 55 (Map preliminary)? Terry: That's for Parker, not the county. Jess: I'm going to propose down from \$60,000. I propose that we make it \$2,000 and move it to line 55. We'll rename it county election and make it \$4,404. I propose that we pay line 55 up front \$6,500 for the county and for Parker. Jess: Line 66 Community Event. Let's remove that. Terry: That's for Erda Days or something like that. I think we should keep it. Scott: Alta had that on their budget, we ought to be looking to help to do something like that. It could be Erda Days or something similar. Jess: I'm ok with that. Jess: Line 68 - I propose that it be the full \$70,000 instead of half. We should use all of the start up in the first 6 months. Craig: One line - Dispatch - They estimated it at \$39,000. In 6 months, it should be closer to \$20,000 not \$10,000. (Line 60) The Sheriff quoted that it was \$39k and change, which is more than what the feasibility study says. We can probably take \$10,000 off of line 59 since it's tentative anyway. Jess: So, is everyone ok if we take \$10,000 from line 59 and move it to line 60? (No objections) Jess: Does anybody have anything else? Craig: Building licenses on line 30 (income) - It's only \$580. We are pretty sure we won't have any income if we have a moratorium.

Terry: We could lift the moratorium earlier. Craig: Unless it's supposed to be for business licenses. I guess we could move the income from there to the income for business licenses. Scott: I'm ok with that. Jess: IT budget. This will be heavy on the front end. We need to buy 2 computers. Why don't we load that heavier, up to \$6500. Any objections on that? Craig: Is that enough? Terry: Does that include the website? Jess: We could really increase it if we include a website, could be as much as \$100,000. Our email accounts are \$20/each. When will we start creating new email addresses for planning/zoning commission? Craig: Within a couple months? Jess: Let's say we have 14 email accounts, that makes \$280/month for \$1680 just for google email and docs. We need to add in a couple of computers and a printer. I'm guessing \$3000, maybe a little less. That brings us to \$4,680. Do you think we can do a website for \$1000? \$2000? Craig: Let's put \$1500 there to leave a \$300 in the surplus for a total of \$8000. Terry: We can get rid of bank charges for the first 6 months, they offered the first 6 months free. Jess: What does that leave us Adam? Adam: About \$1000, but I need to clean it up a little bit. Jess: Any more changes before Adam gets to work on an executive summary? (No response)

5. Council Question to John Brems

- a. Jess: We have 2 ordinances and a resolution to pass tonight. They were posted on the agenda a week ago. The resolutions were not posted at the same time. Are we clear to vote on these? John: You need to put a reasonable person on notice on the subject to be discussed within 24 hours before the meeting. Jess: I did that. The only exception is the tentative budget. John: I think that we are ok since it is just a tentative budget, we are ok. Craig: My question is more towards the land use ordinances. The number was posted, but what they actually were, were not posted. Jess: The notice was posted, but the ordinance was not posted. John: That's ok. You put the world on notice of what would be discussed. Jess: Thank you John.

6. Public Comment

- a. Dan Walton - I was prepared to not speak, so I have some handouts that explains what I was going to talk to you about that explains everything. Expense of wildfire suppression. Explained how costs of wildfire ends up being distributed. Talked about Cooperative Wildfire System. \$0.40/acre for county. \$3.50/acre for incorporated areas. Said it's not a 'fee', at least 50% can be paid through mitigation. John Brems: I worked on this legislation. This is a good thing. The district will help us. We will work it out with them.

- b. Allison Kipp - I know you're concerned about suing the county. I brought 3 articles here for you where entities have sued the county. One is Grantsville. Even though they were sued, they still provided services to Grantsville. I appreciate those who signed on to the lawsuit to get our map. Skywalk is also trying to sue. I also want to address the annexation filed by Craig Smith. He filed it on the day he was elected for 9000 acres. Also an amended application (approved by Grantsville) with 7000+ acres in it. If that is removed, you will see a lawsuit from the developers saying the feasibility study is no longer valid. I will leave these papers with Cory.
 - c. Diane Haney - Online comment about Craig Smith and annexation
 - d. Craig: Motion to close, second by Terry. Motion passed.
7. Approve meeting minutes for 12/23
- a. Jess: Are we ready to approve the minutes from last week. Craig: I've read through them. I asked Cory to make one minor correction and they are correct and accurate. I make motion to approve. Seconded by Terry. Motion passes.
8. Budget comments: \$507732 total revenue, \$496179 expenses. Net surplus of \$11k+. You can put it into another area, or leave it as a slush fund for unanticipated expenses. Terry: Kind of like a general fund? Jess: Is that your recommendation? Adam: Yes, that is my recommendation. Jess: Ok, we'll have that much left over. Should we have him start on the executive summary? (All nod)
9. Committee Assignments Report and Discussion
- a. Roads (Droubay/Miner)
 - i. Scott: Nothing since last Thursday
 - b. Police (Smith/Droubay)
 - i. Craig: With activities of the last week. We don't know where we will be with any of these. We will know more in the next few days. Certainly by next Thursday. Terry: Right now, we are good for 6 months. All the negotiations we are doing is only good until June. Jess: You have a meeting with them next Thursday at 3? Mr. Brems, can you be there for that meeting?
 - c. Land Use/Zoning (Bird/Smith)
 - i. Ordinance 2021-02: Adopting Temporary Zoning Ordinance
 - ii. Jess: How do you want to handle this Craig? Craig: Let's read it and then have some discussion on it. Jess: Reads ordinance. (In the meeting folder on Google Drive) Craig: This is important, the only thing I would change is that this is not a 'special session'. Craig: Motion to strike the word 'special'. Seconded by Terry. Passes. This is important and should move forward. Scott: Do we

need to put some type of stipulation in there about not stopping anybody who is currently underway? Jess: I understand that since we are not mentioning work that is underway, that it is still under the jurisdiction of the county. John Brems: I have no concern adding words 'excepting things that are already approved' just to leave it perfectly clear. Terry: Effective immediately? Can we do that? Brems: We'll have to do this twice. Now and when we are incorporated. Jess: Where should we put it? Brems: In 2 places: "Except for development activities for which a building permit has been issued". If they don't already have a building permit, it's too late for 6 months. Where are we inserting that text? Whereas, insert. . . . AND Now therefore . . .insert. Jess: I'll let Craig read it. Craig: That looks good to me. Scott: Sounds good to me. Craig: I move that we pass Ordinance 2021-02 as amended today. Second by Terry. Motion passes.

d. Ordinance Adoption (Smith/Martin)

- i. Ordinance 2021-03: Ordinance Adopting a Compilation of Ordinances
- ii. Jess: We've been looking at codes from 2 entities so far. Tooele County and Morgan City. We have an ordinance here that we could pass tonight. I recommend we pass something tonight just in case we get incorporation before next week. I think we should open discussion based on the source of the code and see where that leads us. Craig: It's not fair to say that we've only looked at 2 codes. We've looked at many. Kael said he likes Morgan's. It's interesting. It's not all bad. There are a couple of things that don't match us very well. They have a similar population, but they have 2.9 square miles instead of 46 square miles. Their code is abbreviated and simple. It's open to interpretation. It's not all bad. I will probably vote against this ordinance tonight. Mostly because I received it 15 minutes before this meeting. It will be hard to vote up or down without having time to look at it. Kael: I agree that we need codes before our certificate of incorporation. We need some codes in place. A lot of things need to be modified in the Morgan City code for Erda, but there are a vast amount more from Tooele County's code. I'm going to be voting for this today. We need codes in place. I like Morgan City more than I like Tooele County codes. There are less changes to make. Craig: Who has read through the code? Terry: No Jess: No, but neither Tooele County's. Terry: Let's ask Mr. Brems what the harm would be in waiting one more week? Brems:

You have an area that is unregulated by municipal laws, but there wouldn't be any liability. I went through Morgans, quick and dirty. I cut out some things and modified others. There will still need to be more changes made. We will know that something is not perfect. What I've done with other cities is to adopt the county codes by reference because that's what people are used to. What I've heard in this case is that we are used to it, but we don't like it. Kael: I agree with that statement. Craig: I would say they don't like parts of the county code. Kael: That's fair. Craig: Morgan is more restrictive than Tooele County. Example, weeds over 6 inches tall. Kael: Mr. Brems, is that correct? Brems: Yes. As a rural community, you may want to take that out. Craig: There are reasons for this, it's not as clean and easy as you may think. Brems: You may choose to not enforce the 6 inch weed issue in the wintertime. Terry: At least it's something. Kael: At least counsel has gone through it and there are less things to amend. Brems: You are always amending the code. You adopt someone's code, and are continuously working on it. It's always a work in progress. Scott: I have an interesting perspective. It sounds like we do need to have ordinance enforced, maybe even tonight. I'm a firm believer that we are better off with the devil that we know as opposed to the devil that we don't know. I don't know why we don't adopt the Tooele code and start working on it right away and we could draw from Morgan city code as we amend it. Jess: I'm conflicted. There are several provisions in Tooele County code that I don't like. I also don't know Morgan code, haven't lived under it and haven't read it. Mr. Martin has been working tirelessly on adapting Morgan code to apply to Erda City. 6" weeds will be at the top of my list as something to remove. I don't want to see someone removed from their home because of their weeds like we saw in Ogden. I think it would be fair if we could put an option to adopt Tooele County Code for tonight by reference to get through an uncertain period of time until something different entirely can be put into place. Brems: You can do it either way. If you're going to adopt Tooele County code, let me jump offline and tinker with it. We won't want to adopt it completely. There are some things that we don't want to adopt off the bat. Terry: I'd just as soon stay with Morgan. If we are going to adopt something, it should be Morgan. Kael: I agree. Brems: Tell me what to do. 3 votes. Scott: Let's make a motion. Brems: I recommend you adopt Tooele County as modified. Craig: I move that we adopt Tooele County code as

modified by Mr. Brems. Second by Scott. Kael: Is this until next Thursday? Then we can vote on it again. Craig: I wouldn't accept that amendment. Kael: I propose the amendment that we vote on Morgan vs Tooele again next week if this passes. (No second) Craig: We better roll call vote. Jess: It has been moved and second. We are talking about municipal ordinance, not zoning. Scott: Yes. Craig: Yes. Jess: No. Kael: No. Terry: No. Motion fails. Jess: My hesitation is that I don't know what Mr. Brems is working on over there. I would love to know what he is taking out before I vote on it. Craig/Scott: Let's table it and move on. Scott: Motion to table ordinance adoption until a later period in the meeting. Seconded by Craig. Brems: I recommend we go naked for a few days with no ordinances while I clean it up. I think we bring it back a couple days in advance of Thursday's meeting. Scott: What are the possibility that some of the current ordinances that are being broken will find a basis to be grandfathered in and be allowed? Brems: Grandfather only applies to land use. If someone breaks the ordinance between Monday and Thursday, it's not illegal. After Thursday it would be. We won't be able to retroactively punish somebody. Jess: I think I speak for most everybody here that we want some sort of code/ordinance day 1. We have to get through it tonight. Roll call on tabling motion: Unanimous yes.

- iii. Came back after item k. Mr Brems: We should accept Public Safety, Solid Waste Management, Animal Control. We should not accept General Provisions, Title II, Title III, Title V (will eventually need, still too early), Title IX, Title X, Title XI, Title XII, Title XIII, Title XIV (need to make some modifications), Title XV, Title XVI (will need eventually). I have a question about Title VI with noise. I don't know if you want to eliminate it or keep it. Jess: I think we keep it. Brems: I left it in. Jess: Why not we do an alternate resolution with the chapters we might include? Brems: I sent you an updated resolution with those titles. I only sent it to you and it has the 'special' wording on there. Jess: I'm going to read the alternate ordinance. ****Reads alternate ordinance**** - Adopting Tooele County ordinances, but only Titles 6, 7 and 8 with references to Tooele County be changed to City of Erda. Chapter 6.2 is not adopted hereby. Kael: John, how much work have you put into Morgan's vs. Tooele County'? John: 4-5 hours more on Morgan's. Tooele I did it while listening to this meeting. Kael: So, you've put in more into Morgan? Brems: Yes. Kael: I believe we still need to stay with

Morgan. The people in my district would prefer to see Morgan's adopted. Tooele is more different than Erda than Morgan is different than Erda. Craig: I respectfully disagree. I think the majority of people are uncomfortable with specific parts of the ordinance, not the entire thing. Scott: I think people are more accustomed to what they are living. If we leave all of Tooele County and adopt another, there will be a misunderstanding of what is expected. The devil we know vs the devil we don't. Craig: According to our attorney, he has taken the county code and started to change it in the past cities. Kael: John, do you find Tooele County comparable at all to the other cities that you've done in that regard? Was there any pushback about receiving county ordinances in other cities? Brems: There was no pushback. Most people didn't even know. Neither is wrong. We just need to know what to start with. Kael: This is not comparable to what he has done in the past. Terry: What are the ones we are adopting? John: 6 - Public Safety. 7 - Solid Waste Management. 8- Animal Control. I think we should add 14, which is our building codes so that those currently building with a permit have to stay with the same procedure. Terry: Which one was the noise ordinance? Brems: Chapter 6 Terry: Part of public safety? Brems: Yes. Jess: We are going to amend this resolution. Brems: Make a motion, I'll fix it and send it. Jess: I move to add section 14. Seconded by Scott. Roll call vote: Scott - Yes. Craig - Yes. Jess - Yes. Kael - No. Terry - Yes. Jess: John, that passes. Add 14 to that and send it back to us. Terry: Isn't this considered in case of emergency? Just a band aid? Jess: I agree with Craig. We can't start without a code. I am not familiar with Tooele code. The residents of Tooele are familiar with it. They hate parts of it, but not all of it. It's familiar. I know we've been working hard on Morgan. I'm probably more in favor of their codes than Tooele. I don't know what they say, so I can't vote on them. I want to see a liberalization of home based business and the point system for animals be done away with. I would like to see that code changed in some way. I don't have the verbiage to put in there right now, today. The way that I'm leaning is to adopt these 4 chapters of Tooele County code today. Terry: That's the alternate code, just those 4 chapters? Jess: Yes. And we will place 'City of Erda' in the place of 'County of Tooele'. Kael: I think we can add some of Morgan's code into what we may end up adopting tonight. Jess: I say we adopt what we can tonight with the understanding that we are working on another set

of code. This will give the public a chance to see it. John, I've asked you before, is it doable to replace a city's entire code? Brems: It takes a while. You'll have to go through every line. Jess: If we adopt these from Tooele County, and we decide in a month that we have really gone over Morgan City code, could in February, we replace the temporary Tooele County code with the Morgan City code? Brems: Yes, we could do that. Jess: Any further discussion? Craig: Moves to adopt the ordinance 2021 adopting Tooele County code, Titles 6,7,8 & 14 as amended by Brems. Second by Terry. Jess: Amend to with the understanding that members of the council will work on proposing a permanent set of code in the near future. Amendment seconded by Scott. Vote on amendment - All vote yes. Passes. Vote on original motion (with amendment) - Roll call vote. Scott - Yes. Craig - Yes. Jess -Yes. Kael - No. Terry - Yes. Vote passes.

- e. Articles of Incorporation, Map, Retirement Letter (Martin/Bird)
 - i. Jess: Approved and signed map by Tooele Co Surveyor has been turned into Lt Governor's office this morning at 9:30 along with a scanned PDF. It is my understanding that they are processing that right now. They need 1-2 days time before a certificate can be issued. I understand that there is litigation against LGs office from Skywalk to hold LGs office to a strict interpretation of the 10 days from the date notice was given (12/16/2021)
- f. IT (Martin/Bird)
 - i. Jess: Nothing to report. Billing on emails will start in approximately 20 days. Terry, did you apply for some credit cards? Terry: Yes, we applied.
- g. Attorney (Droubay/Miner) - Engage Services, Report on current lawsuit(s) regarding the City of Erda
 - i. Jess: We've already engaged services. Already reported on incorporation. Terry: I want to clarify that Mr. Brems is the attorney for the city of Erda. Scott: I say we need to go a little further than that. We need some type of clarification or resolution that keeps the city council from being involved in those lawsuits with Janet Conway. I spoke with Jess earlier and I know there is some consternation with an association that exists with Erda City Council, the lawsuits and Janet Conway. Jess: I don't know what the county has seen or heard to make them concerned. Let me read the first line that is causing some confusion. *Reads first line of an email* Email dated today at 7:22 am from Janet Conway to

thirdpettitteam@utahcourts.gov and a handful of other addresses. I believe this is the Skywalk suit against the LGs office. "I represent the" This is a poorly worded sentence and it gave me pause when I first read it today. If you read it too quickly you may read it as Janet has been appointed by the Erda City Council. This has not happened. The words 'appointed by Erda City Council' has everything to do with me and Kael being on the incorporation steps committee together. While we are working with her and the sponsors as . . . Scott: Can we get an opinion on this? The way it is worded is that it sounds like Jess and Kael are on the lawsuit representing the Erda City Council. I don't know why she would try to point that out otherwise. Jess: Mr. Brems did you hear that question? Brems: First of all, Erda is not an entity that can bring a lawsuit at this point. So, this is not Erda itself. It happens to be 2 members of the council. I think that clarification would solve it. If you want, I can send that message to Janet. Scott: I think that's good counsel. Jess: Yes, please send the message Mr. Brems. Jess: Are you satisfied with that Scott? Scott: Yes, Terry and I will try and rectify that with the county.

- ii. Scott: We are very happy with our attorney. Jess: I think we got a good one.
- iii. Scott: I spoke with Eric Johnson at the first of the week. He asked how it went. He was very gracious. He said Mr. Brems will do a good job and was glad that we are taken care of.
- h. Garbage (Martin/Smith)
 - i. Craig: We don't know where we will be until our meeting on Thursday. Terry: We know exactly where we are at. We have until June. Craig: That's entirely up to the county council. Terry: Their procedure is to give us until June. That's what they said in the last meeting. It's already budgeted to that point and that's how long we have. Everything is good until that date in June. Craig: The tentative agreement is that they would continue until June, but the County Council has never approved that. Kael: I'm hopeful of that as well. I have spoken with Ace Disposal as well. I gave them a count of cans. They are willing to work with us with whatever happens. Craig: We don't know where we'll be until Thursday. We may have to hire somebody on an emergency basis. Hopefully we have until June and we have time to do an RFP. Terry: Everything the council says is that we have until June.
- i. Finance (Miner/Droubay) - Approve Tentative Budget

- i. Terry: Do you want to wait until we talk about the banks during the Rep reports? Jess: Let's just move that to right now and discuss it there. Scott: We're talking about the budget or Zions? Ha ha! Terry was there. Their guy who creates a credit line is supposed to contact us as soon as he can. With the holidays, we haven't heard yet. They will give us a bid on what they can do for us and what sort of a credit line they will give us. I don't expect any problems. Nobody said an amount. We told them a tentative amount that we would require in a year's time. They didn't say if they would approve that, or less or more. We'll probably have to call them again on Monday morning. Terry: They said it could take up to 2 weeks because it had to go back to the guy in charge of public accounts. We do have a checking account now. We requested a city credit card with a \$10,000 credit limit. They waived the fee for opening the account. They are waiving the fees for the first 6 months. We tried to set up a line of credit. Jess: Is that applied for? Terry: We asked, but the guys who make those decisions. Scott and I need to know how much we can do without needing the full counsel approval. Jess: Brems, can you hear us? The finance committee is asking if they are authorized to do things like apply for loans and things with Zions Bank right now and act on behalf of the council. I don't think we have a resolution to grant them that authority. Brems: I have experience with Zions Bank. It turns out to be an unsecured line of credit with a promise that you pay it back with revenues at a later date. Jess: You may be missing the point. Can Scott and Terry apply and accept things? Brems: No, the council will have to adopt a resolution to take out a loan from the bank, but they (Scott and Terry) can start the process. Terry: I want to make sure that we didn't cross a line to open a checking account. Brems: I can draft a resolution ratifying that action for next Thursday.
- ii. Adam: You all have copies of the proposed budget. The projected revenue is \$507,732.50, the projected expense is \$496,179.00, leaving a surplus of \$11,553.50. The executive message has been updated and sent to each of you. Craig: A loan typically has interest tied to it. We don't know how much that will be, but how do we address it in the tentative budget? Brems: Your budget will have to be amended. Jess: John, are we in a good position to pass a tentative budget tonight? Brems: Yes. It's a good place to start. Adam: It's up to you guys now. The executive summary is required

by Utah State Law. Ours is 1 page because it's short. They have 5 requirements, most of them are about changes. So, it's just an outline of projected revenues and expenditures. Jess: I think we read this executive summary and then proceed to a vote. Will you read Adam? Adam: **Reads executive summary** Jess: **Reads Resolution 21-09** (struck word 'Special' with no objections) Jess:: Moves to adopt Resolution 21-09 including all amendments from tonight. Seconded by Craig. Roll call vote: All in favor. Resolution adopted.

j. Office Location (Martin/Bird)

- i. Jess: I met with Mr. Buck at the Pine Canyon Fire Station. I have some pictures. This is a 24x30 space in a large finished room. It has carpet, heat, cooling by swamp cooler. Kitchenette area. Unisex bathroom. A door that divides the fire equipment with this office which could accommodate a double lock. This bathroom is set up for men, with a lock on the door. There are probably 3 or 4 painted parking stalls. Buck tells me that you can park diagonally and get even more cars in, so long as you don't block the bay doors. I've got to talk to Jay Z and review what that would look like in costs for us. I'm assuming we would share heating and cooling. We would need internet. We would need minimum 2 desks. Maybe try to find some cubicles. Craig: Is there already some type of internet in the building? Jess: Beehive is all that we could get. Public: The only thing we have is to have for some badges. Chief would have to represent fire on this. Jess: We'll need our own internet. Craig: We will definitely need our own internet. We'll look at it closer. Jess: This would be only an office, there isn't parking for a meeting. We could fit people in there, but parking would be an issue. Scott: That's a narrow road. We don't want to park on the street. Jess: The neighborhood wouldn't be happy with us. Kael: We need a physical address. Jess: Mr. Buck, does that address get mail? Public: We don't currently get mail, but it has a physical address. Fire Chief Jay: I spoke with command staff, they are very open to the idea. We just need a formal proposal to present to our Board of Directors, because it's up to them. . . . and of course figuring out splitting costs. I can't speak for them, but my experience is that rent is at \$1/year as long as the other costs are shared. Jess: When are they meeting? Jay: They are meeting one week early this year. I'm happy to take a memorandum or a request to them when they meet. Jess: We have one more week in between

to approve it, so it may be next week before we approve. Buck:
One item, we would have to share that bathroom with you guys.
Jess: So, we would need to think about keys and access and how
that would be done. Jay: We could include that in the memo. Kael: I
think that's awesome. Scott: Great idea. Craig: Great possibilities.
Terry: Sounds good.

k. Advertise for City Clerk and Treasurer

- i. Jess: I have done no activity on this. We are getting down to the
wire. Let's just leave it for the next meeting. I may ask for some
help. Scott: I think you should get some help from the rest of us.

10. Council Representative Reports - Motion to table by Craig. Second by Scott.
Motion passes.

11. Comments from Council Members - Motion to table by Craig. Second by Scott.
Motion passes.

12. 5 minute recess.

13. Council will convene in a closed session to discuss pending of reasonably
imminent litigation per Utah Code Ann. §52-4-205(1)(a)

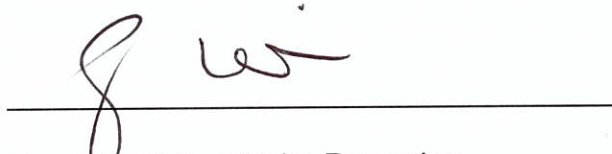
- a. Craig moves for a closed session to discuss pending and reasonably
imminent litigation. Second by Terry. Roll Call vote. Scott - Yes. Craig -
Yes. Jess - Yes. Kael - Yes. Terry - Yes.

14. Adjournment

APPROVED BY THE ERDA CITY COUNCIL ON 1/6/2022.

A handwritten signature in dark ink, appearing to read "Jess Bird", is written over a horizontal line.

Jess Bird, Council Chairman

A handwritten signature in dark ink, appearing to read "Cory Warnick", is written over a horizontal line.

Cory Warnick, Interim Recorder