



MINUTES

Special Council Meeting

(Subject to confirmation)

24 October 2018

**MINUTES OF YORKE PENINSULA COUNCIL
SPECIAL COUNCIL MEETING
HELD AT THE COUNCIL CHAMBERS , MINLATON TOWN HALL, 57 MAIN STREET,
MINLATON
ON WEDNESDAY, 24 OCTOBER 2018 AT 10.00AM**

1 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY BY CHAIRPERSON

Mr Cameron advised that with the Mayor and Deputy Mayor both recorded as apologies, it would be necessary to appoint an Elected Member to act in the role of Chairperson.

RESOLUTION

Moved: Cr Trevor Davey

Seconded: Cr John Rich

That Cr Jeff Cook be appointed as the Chairperson in the absence of the Mayor and Deputy Mayor.

CARRIED 285/2018 (24/10/2018)

Chairperson Cr Jeff Cook recited the Acknowledgement of Country and the Opening Prayer, welcomed everyone to the meeting and declared the meeting open.

2 OPENING PRAYER

3 PRESENT

Cr Trevor Davey, Cr Naomi Bittner, Cr John Rich, Cr Veronica Brundell, Cr Alan Headon, Cr Adam Meyer, Cr Jeffrey Cook, Cr David Langford

In Attendance

Andrew Cameron (CEO), Jackie Reddaway (Minute Secretary)

4 LEAVE OF ABSENCE

Nil

5 APOLOGIES

Mayor Ray Agnew, Deputy Mayor Scott Hoyle, Cr Tania Stock, Cr Darren Braund

6 CONFLICT OF INTEREST

Chairperson Cr Jeff Cook reminded all Elected Members of the requirement to disclose any conflict of interest in relation to any matters before Council.

7 MOTIONS ON NOTICE**7.1 NOTICE OF RESCISSION - CRS JOHN RICH, TREVOR DAVEY, NAOMI BITTNER****RESOLUTION**

Moved: Cr Trevor Davey

Seconded: Cr John Rich

That Council revoke the following motion of Council:

Moved: Cr Adam Meyer

Seconded: Cr Naomi Bittner

- 1. That the report be received.*
- 2. That the Ombudsman SA be advised that Council takes no further action with respect to the Full Investigation Final Report 2018 04529 – Cr Stock.*

CARRIED

Cr Adam Meyer called for a division

As a consequence the result of the above motion was set aside.

In Favour: Crs Naomi Bittner, Veronica Brundell, Darren Braund, Alan Headon and Adam Meyer

Against: Crs Trevor Davey, John Rich and David Langford

The Chairperson declared the Motion

CARRIED 224/2018(12/09/2018)

CARRIED

Cr Adam Meyer called for a division

As a consequence the result of the above motion was set aside.

In Favour: Crs Trevor Davey, Naomi Bittner, John Rich and David Langford

Against: Crs Veronica Brundell, Alan Headon and Adam Meyer

The Chairperson declared the Motion

CARRIED 286/2018 (24/10/2018)

7.2 NOTICE OF MOTION - CRS JOHN RICH, TREVOR DAVEY, NAOMI BITTNER**RESOLUTION**

Moved: Cr Trevor Davey

Seconded: Cr John Rich

That, arising from the request contained in the Correspondence received from Ombudsman SA in relation to the Ombudsman SA - Full Investigation - Final Report – 2018/04529 – Cr Stock (the Report) Council:

1. reconsiders the Report as requested by Ombudsman SA;
2. having reconsidered the Ombudsman SA recommendations contained within the Report, Council accepts the Ombudsman's recommendations;
3. having further reconsidered the matter, Council reprimands Cr Tania Stock.

CARRIED

Cr Adam Meyer called for a division

As a consequence the result of the above motion was set aside.

In Favour: Crs Trevor Davey, Naomi Bittner, John Rich and David Langford

Against: Crs Veronica Brundell, Alan Headon and Adam Meyer

The Chairperson declared the Motion

CARRIED 287/2018 (24/10/2018)

8 QUESTIONS ON NOTICE

8.1 QUESTIONS ON NOTICE RECEIVED FROM CR ADAM MEYER

The following questions on notice were received from Councillor Adam Meyer and have been included in the Agenda. Responses to those questions have been prepared and are outlined below.

Questions and Answers

1. Were any Council staff or Legal advice resources, used to write the request for the Special Council Meeting of 24 October 2018?

Following the request for the Special Council Meeting, assistance was provided at the direction of the CEO, to ensure legal and legislative compliance.

2. When the CEO contacted Elected Members to organise the meeting time for the Special Council Meeting of 24 October 2018, can the CEO please detail which Elected Members were contacted, when they were contacted, if and which Elected Members were excluded, and if any exclusions occurred, which Legislation was used to exclude these Elected Members from this process?

The Chief Executive Officer is responsible for managing the quorum for, and dealing with any adjournment of, meetings under Regulation 7 of the Local Government (Procedures at Meetings) Regulations 2013. To that end, contact was made with all members who could contribute to a quorum being obtained and maintained for the proposed meeting date and time.

3. Referencing the CEO email to Elected Members on 30 June 2017, titled "Conflict of Interest", does the exclusion of any Elected Members by a staff member, due to previously declared Conflicts of Interests, meet the requirements of this legal advice?

See response to Question 2, above.

4. Will Mayor Agnew, Deputy Mayor Hoyle and Cr Stock be allowed to attend and supply a personal explanation to the Elected Body at the meeting, as has occurred at previous meetings on this topic?

All members of Council are obliged to attend any meeting of the Council, called in accordance with the Local Government Act 1999. Any member may, with leave of the meeting, make a personal explanation.

5. With Confidential Agenda item, 8.1 Code of Conduct for Council Members Complaint (Meeting 14 June 2017) having a confidentiality order for a period of 12 months, can the CEO please advise when these Confidential Minutes were released to the public as per Section 91 (7) order (145/2017)?

Confidential Minutes are public at the conclusion of the order, unless Council reconsiders that order prior to the expiry date of the order. The 14 June 2017 Confidential Minutes were

released on the website on 21 August 2018, along with several other sets of minutes (oversite of the Minute Secretary).

6. The recommendation from the Local Government Governance Panel and Meeting Minutes of 14 February 2018, item 2.1. which states: “that Cr Stock be requested to make a written and verbal public apology for a breach of”, and by referencing the Code of Conduct for Council Member and relevant Legislation, can the CEO please advise if this meant Cr Stock MUST apologise or just be requested to apologise as the motion stated?

This was a recommendation from the Independent Investigation of the complaint undertaken by the Local Government Governance Panel and also addressed within The Ombudsman SA Final Report – Full Investigation – 2018/04529 – The Ombudsman sets out his views in this regard, in particular in items 27-31.

7. The recommendation from the Local Government Governance Panel and Meeting Minutes of 14 February 2018, Item 2.3. which states: “review it’s Process for Managing Complaints and Breaches under the Code of Conduct for Elected Members to make consideration of mediation or conciliation by an external, independent person a regular step before referral of complaints between Elected Members to the Panel”, can the CEO please advise what steps have been taken since that motion was approved by the Elected Body, to comply with that instruction and has the Mayor or any staff member referred any Non Compliance with this instruction to the Ombudsman’s Office for investigation?

The Process for review is listed in the Council Meeting Action List for review with the newly formed Council in January. Given that the new Council are the ones who may directly be impacted by this process, it is prudent to have them determine the process.

The Acting Chair has determined that the part of the question relating to a report to Ombudsman is improper for the purpose of Regulation 9(6) of the Local Government (Procedures at Meetings) Regulations 2013, and accordingly that it not be answered. A question that goes to any action taken regarding a possible external investigation is improper.

8. The Ombudsman’s report, dated 3 August 2018 stated: “In the event that no action has been taken, reason(s) for the inaction should be provided to me.”, can the CEO please explain why no reasons for inaction (as discussed in the meeting) were supplied in the CEO’s letter of 20th September 2018 to the Ombudsman.

Any reasons for Council’s inaction are a matter for the Council, not the Chief Executive Officer. In order for such reasons to be provided to the Ombudsman, they would need to be approved by resolution of the Council.

9. How much in legal fees and payments for the Local Governance Panel review, have been incurred in this matter by Council, since the initial complaint was lodged with Council?

Costs associated with the Local Governance Panel Review (excl GST)

PO23605	EMA Legal	\$3461.60
PO25321	LGA	\$9266.95
PO25701	Investigator	\$92.00

RESOLUTION

Moved: Cr Adam Meyer
Seconded: Cr Veronica Brundell

That the Questions on Notice and the responses be received.

CARRIED UNANIMOUSLY 288/2018 (24/10/2018)

9 NEXT MEETING

Wednesday 28 November 2018

10 CLOSURE

The Meeting closed at 10.12am.

The minutes of this meeting were confirmed at the Ordinary Meeting of the Yorke Peninsula Council held on 28 November 2018.

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MAYOR