



Shire of
Serpentine
Jarrahdale

Special Council Meeting **CONFIRMED** **MINUTES**

5.00pm

Monday 12 February 2018

Contact Us

Enquiries

Call: (08) 9526 1111

Fax: (08) 9525 5441

Email: info@sjshire.wa.gov.au

In Person

Shire of Serpentine Jarrahdale

6 Paterson Street, Mundijong WA 6123

Open Monday to Friday 8.30am-5pm (closed public holidays)



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The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the *Local Government Act 1995* (Section 5.25(1)(e)) and *Council's Standing Orders Local Law 2002 (as amended)* – Part 14, Implementing Decisions. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The Shire of Serpentine Jarrahdale expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.



Minutes of the Special Council Meeting of the Shire of Serpentine Jarrahdale held on Monday 12 February 2018 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong.

The Shire President, Cr Rich declared the meeting open at 5.00pm and welcomed Councillors, Staff and members of the gallery, and acknowledged that the meeting was being held on the traditional land of the Noongar People and paid her respects to their Elders past and present.

Minutes

1. Attendances and apologies (including leave of absence):

In Attendance:

Councillors: M Rich Presiding Member
D Atwell
M Byas
R Coales
B Denholm
D Gossage
K McConkey
S Piipponen
J See

Officers: Mr K Donohoe Chief Executive Officer
Ms H Sarcich Deputy CEO / Director Community Services
Mr F Sullivan Director Corporate Services
Mr A Schonfeldt Director Development Services
Mr R Davy Acting Director Infrastructure Services
Ms A Liersch Agendas and Minutes Officer (Minute Taker)

Leave of Absence: Nil

Apologies: Nil

Observers:

Members of the Public – 2

Members of the Press – Nil

Shire Officers – 1



2. Public question time:

2.1 Response to previous public questions taken on notice

Nil

2.2 Public questions

Public question time commenced at 5.01pm.

Mr W John Kirkpatrick, 77 Mead Street, Byford WA 6122

This matter raises the questions of conflict with the Local Government Act of 1995 as to whether the then Shire President used his position of Shire President to influence the Community Bank to make a substantial grant to a private organisation of which he was President when the Shire was a substantial shareholder in that Bank.

Question 1

Will the Council develop a policy as the reply to Question 2 Raised by me at the annual electors meeting as the Council is a substantial shareholder in the Community Bank and did the previous President declare an interest when the Byford and Districts Country Club applied for a grant of \$166,000 to complete the fit out of this Private organisation?

Response:

This question will be taken on notice and a response provided to Mr Kirkpatrick.

Question 2

Will the Council seek a reimbursement of the expense's as described in question 5 of the Annual Electors meeting as his refusal to be part of the emergency management team would clearly indicate that his attendance of this conference was for personal business reasons and not for the benefit of the community?

Response:

Council recently undertook a Policy Review, and Policy 1.1.15 Councillor Fees and Entitlements was amended to include at 3.1.8 "The Chief Executive Officer is to authorise training / conferences listed in part 3.1 for Councillors in advance. Any request that is not in accordance with this Policy or exceeds the budget allocation may be referred to Council by the Chief Executive Officer".

Reimbursement will only be sought if a Councillor did not abide by Clause 3.1.9 which was added into Policy 1.1.15 Councillor Fees and Entitlements which states that "In the event that a Councillor does not attend a training session or finalise the Local Government Diploma, then a Councillor is to repay the Shire for the expenditure".

Councillor Gossage attended the training in accordance with Council's Policy; therefore, no reimbursement will be sought.



Mr W John Kirkpatrick, 77 Mead Street, Byford WA 6122 con't

Following the comments as recorded in the Minutes of the Annual Meeting of Electors meeting by Mr Warren Robinson of 52 Lawrence Way Byford.

Question 3

How many other Councillors in the 2 years prior to the October 2017 elections were booked to Attend Training (which indicates that the Shire has paid the fee required) of any kind and failed to attend and what was the cost to the Shire and who were they?

Response:

This question will be taken on notice and a response provided to Mr Kirkpatrick.

Public question time concluded at 5.05pm.

3. Public statement time:

Public Statement time commenced at 5.05pm.

Mr W John Kirkpatrick, 77 Mead Street, Byford WA 6122

It was noted in the Presidents report that the Shire had been working of funding for the Tonkin Highway extension's and the Rail Line from Armadale to Byford. I know Mr Barry Urban MLA has been working hard with the State ALP to get funding for this.

It was reported in the Sunday paper that the State Premier had made these two matters part of the COAG discussions with the Prime Minister. They were asked to be included in the priorities for the State infrastructure funding.

This is the first time that this matter has. been raised at this level, congratulations to the current Shire President and CEO.

Public Statement time concluded at 5.06pm.

4. Petitions and deputations:

Nil

5. Declaration of Councillors and Officers interest:

Nil



6. Receipt of minutes or reports and consideration of adoption of recommendations from Committee meetings held since the previous Council meetings:

6.1 Reports for consideration:

SCM001/02/18 – Decisions of the Annual General Meeting of Electors - 5 February 2018 (SJ2455)	
Author:	Kellie Bartley – Manager Corporate Services
Senior Officer/s:	Frazer Sullivan – Director Corporate Services Kenn Donohoe – Chief Executive Officer
Date of Report:	6 February 2018
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Introduction

The Annual General Meeting of Electors of the Shire of Serpentine Jarrahdale was held on 5 February 2018 in accordance with section 5.27 of the *Local Government Act 1995* (the Act). Section 5.33 (1) of the Act requires that all decisions made at an Electors Meeting to be considered at the next Ordinary Meeting of Council or, if that is not practicable (a) at the first ordinary council meeting after that meeting; or (b) at a special meeting called for that purpose.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this issue.

Background

The Shire's Annual General Meeting of Electors was held on 5 February 2018 in accordance with section 5.27 of the Act. The meeting was attended by 46 members of the public. 7 decisions were considered at the Meeting with 4 decisions carried by simple majority.

Decisions made by electors at an Elector's Meeting are the recommendations of those electors present, on the matters discussed and considered at the meeting. Any decisions passed at an Electors' meeting are not binding on the Council; however, Council is required to consider them.

Community / Stakeholder Consultation

The Annual General Meeting of Electors was advertised in The Examiner on the 11 January 2018. Public notices were placed on the Shire Administration Building and Mundijong Public Library notice boards and on the Shire's website.



Statutory Environment

Local Government Act 1995

5.27 Electors' General meetings

- (1) *A general meeting of the electors of a district is to be held once every year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

5.30 Who preside at electors' meetings

- (1) *The mayor or president is to preside at electors' meetings.*
- (2) *If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.*
- (3) *If the circumstances mentioned in section 5.34(a) or (b) apply and –*
 - (a) *the office of deputy mayor or deputy president is vacant; and*
 - (b) *the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,*

Then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.

5.31 Procedure for electors' meetings

The procedure to be followed at, and in respect of, electors' meetings and the methods of voting at electors' meetings are to be in accordance with regulations.

5.32 Minutes of electors' meetings

The CEO is to –

- (a) *cause minutes of the proceedings at an electors' meeting to be kept and preserved; and*
- (b) *ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.*

5.33 Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –*
 - (a) *at the first ordinary council meeting after that meeting; or*
 - (b) *at a special council meeting called for that purpose,**Whichever happens first.*
- (2) *if at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

Local Government (Administration) Regulations 1996

15. Matters to be discussed at general meeting (Act s.5.27(3))

For the purposes of section 5.27(3), the matters to be discussed at the general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.



17. *Voting at meeting (Act s.5.31)*
- (1) *Each elector who is present at a general or special meeting of electors is entitled to one vote on each matter to be decided at the meeting but does not have to vote.*
 - (2) *All decisions at a general or special meeting of electors are to be made by a simple majority of votes.*
 - (3) *Voting at a general or special meeting of electors is to be conducted so that no voters' vote is secret.*
18. *Procedure at meeting (Act s. 5.31)*
Subject to regulations 15 and 17, the procedure to be followed at a general or special meeting of electors is to be determined by the person presiding at the meeting.

Comment

In accordance with s5.33 of the *Local Government Act 1995*, it is required to consider the decisions made at the electors meeting.

Council can either take no further action and note the decision or take the course of action the Council considers reasonable and record the reasons for the Council decision.

The 4 decisions carried by simple majority at the Annual General Meeting of Electors are set out below. There were 3 lost decisions and no further action is required.

Business of the Meeting

2016/2017 Annual Financial Report

AGME001/02/18 ELECTORS' DECISION

Moved Mr John Kirkpatrick, seconded Ms Margaret Cala

That the 2016 / 17 Annual Financial Report be received.

CARRIED BY SIMPLE MAJORITY

Auditor's Report

AGME002/02/18 ELECTORS' DECISION

Moved Ms Lisa Brazier, seconded Mr Tom Dyer

That the Auditor's Report on the 2016 / 17 Annual Financial Report be received.

CARRIED BY SIMPLE MAJORITY

2016/2017 Annual Report

AGME003/02/18 ELECTORS' DECISION

Moved Mr John Kirkpatrick, seconded Ms Mary Plant

That the remaining parts of the 2016 / 17 Annual Report be received.

CARRIED BY SIMPLE MAJORITY



Decisions tabled during General Business/any other business

AGME004/02/18

ELECTORS' DECISION

Moved Mrs Lee Bond, Seconded Cr See

The people of Serpentine Jarrahdale move that the requirement for questions and statements be submitted prior to Council meetings be lifted allowing those that want to submit them can, and those that don't, have the option to just bring them to a meeting and ask them.

CARRIED BY SIMPLE MAJORITY

AGME005/02/18

ELECTORS' DECISION

Moved Mrs Lee Bond, Seconded Mr Brian Williamson

That a policy be formulated that prohibits Councillors, Staff, Contractors consultants, supplies and their immediate families of the Shire of Serpentine Jarrahdale from entering any competition or award of any kind that is any way connected to the Shire whether it be by sponsorship, affiliation.

This does not apply to staff incentive programs that are not open to the public.

MOTION LOST

AGME006/02/18

ELECTORS' DECISION

Moved Mrs Lee Bond, Seconded Mr Brian Williamson

That a paragraph be inserted into all delegated authorities that states:

Should a resident or ratepayer feel aggrieved by a decision made under delegated authority that they have the right at no cost to insist that their grievance be referred to full council for a determination.

MOTION LOST

AGME007/02/18

ELECTORS' DECISION

Moved Mrs Lee Bond, Seconded Mr Brian Williamson

That video and audio recordings of each council and extraordinary council meetings as well as electors and extraordinary elections meetings be made available to the public by the end of the day after said meetings at no cost on the shires web site (ideally live stream).

MOTION LOST

Attachments

- [SCM001.1/02/18](#) – Minutes – Annual General Meeting of Electors held 5 February 2018 (E18/1278)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.



Financial Implications

There is no financial implications associated with this item.

Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Failure to consider the decisions made at the Annual General Meeting of Electors will mean that the Shire has not complied with section 5.33 of the Act.	Possible (3)	Moderate (3)	Moderate (5-9)	Compliance - 3 Moderate - Non-compliance with significant regulatory requirements imposed	Accept Officer Recommendation

Risk Matrix

Consequence \ Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 9 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.



Voting Requirements: Simple Majority

SCM001/02/18 COUNCIL DECISION / Officer Recommendation:

Moved Cr Byas, seconded Cr McConkey

That Council:

- 1. Receives the Minutes of the Annual General Meeting of Electors held on the 5 February 2018 in attachment SCM001.1/02/18.**
- 2. Accepts all decisions with the exception of AGME004/02/18 which will be deferred to a Council workshop(s) held before June 2018.**

CARRIED 5/4

Councillor Coales, Councillor Piipponen and Councillor See requested their votes against the motion be recorded.

Reason for decision: Council needs to consider Electors' Decision AGME004/02/18 through a number of workshops to ensure that the Electors' Decision is appropriately investigated.

7. Questions by Members of which due notice has not been given:

7.1 Councillor See

Councillor See asked the Chief Executive Officer as per part 3.11A of Council's Standing Orders Local Law 2002 (as amended) : If a Councillor during their election campaign makes a statement or commitment of a personal matter to the community, during that campaign, does that then waive the right of a Councillor, pursuant to Policy 1.1.3 subsection (e), to now deem that such a question is now not of a personal matter due to the Councillor openly discussing it with the Community?

The Chief Executive Officer responded that legal advice would be sought and that a response provided.

8. Motions of which notice has been given:

Nil

9. Urgent business:

Nil

10. Closure:

There being no further business the Presiding Member declared the meeting closed at 5.10pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on 26 February 2018.

.....
Presiding Member

.....
Date