



SHIRE OF YORK

SPECIAL ELECTORS MEETING
HELD ON MONDAY, 27TH JULY, 2015, COMMENCING
AT 6.16PM IN THE YORK TOWN HALL, YORK

The York Shire Council acknowledges the traditional owners of the land on which this meeting will be held.

1. OPENING

1.1 Declaration of Opening

Cr Matthew Reid, Shire President, declared the meeting open at 6.16pm.

I would like to acknowledge the Balladong People, the Traditional Owners of the land on which we are gathered and pay my respects to their Elders both past and present.

1.2 Disclaimer

The Shire President advised the following:

"I wish to draw attention to the Disclaimer Notice contained within the agenda document and advise members of the public that any decisions made at the meeting today, can be revoked, pursuant to the Local Government Act 1995.

Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received. Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material."

1.3 Standing Orders

Clause 3.2 – Order of Business

Motion not put.

1.4 Announcement of Visitors

Nil

1.5 Declarations of Interest that Might Cause a Conflict

Financial Interests

Nil

Disclosure of Interest that May Affect Impartiality

Nil

2. ATTENDANCE

2.1 Members

*Cr Matthew Reid, Shire President; Cr Denese Smythe, Deputy Shire President;
Cr David Wallace*

2.2 Mentoring/Monitoring Panel

*Jenni Law, Department of Local Government & Communities, Andrew Borrett, Department
of Local Government & Communities; Daniel Simms, CEO City of Wanneroo*

2.3 Staff

*Graeme Simpson, Acting Chief Executive Officer; Allan Rourke, Manager Works &
Services, Gail Maziuk, Compliance/Human Resources; Tabitha Bateman, Financial
Controller; Helen D'Arcy-Walker, Executive Support Officer*

2.4 Apologies

Cr Pat Hooper

2.5 Leave of Absence Previously Approved

Nil

2.6 Number of People in Gallery at Commencement of Meeting

There were 65 people in the Gallery at the commencement of the meeting

3. THE SHIRE OF YORK ANNUAL BUDGET 2015/16

4. PURCHASE OF LOTS 800 & 801 SOUTH STREET, YORK

5. BORROWING \$625,000 TO FUND THE PURCHASE OF LOTS 800 & 801 SOUTH STREET, YORK

The Shire President asked if anyone had motions they would like to put to the meeting.

Dr Plumridge and Ms Barratt indicate they would be putting motions to the meeting.

Ms Barratt did not have a Motion prepared and was asked by the Shire President to be seated.

There were no Motions to be put regarding the Budget.

Public Question Time commenced at 6.19pm

Ms Val Menezes

Question 1:

The ANZAC Grant – is this for the Len Zuks Statue?

Response:

The Acting CEO responded that the grant is for a sculpture of Lieutenant Lawrence McCarthy VC.

The Shire President stated that the Shire of York had received a Grant through the Hon Christian Porters office which is a Federal Grant received through the Shire for the RSL.

Ms Sandra Paskett

Question 1:

Has there been any money placed in the budget for an Economic Development Officer?

Response:

There is only money available for a part time Economic Development Officer as there are no funds for an Economic Development Officer for the full year.

Question 2:

Is the \$10,000 for Avon Tourism in the budget?

Response:

\$10,000 for Regional tourism is in the budget.

Question 3:

I was recently contacted by PPR regarding advertising in a wedding magazine and I declined as the Shire does not sponsor individual businesses

Response:

The Acting CEO stated that there is money in the budget for publicity with joint funding by businesses.

Question 4:

Jazz Festival – is the Shire contributing to the ‘Taste of Jazz’ to be held later in the year?

Response:

The Acting CEO stated he is not aware of this specific application, however he will look at grant applications.

Question 5:

Can you confirm that the statue is only on loan and will be returned?

Response:

The Acting CEO stated that as far as he is aware the statue still belongs to the owner. The RSL is attempting to raise the money to purchase. The Shire does not intent to purchase the statue.

Mr Julian Krieg

The elected members gave a commitment to ratepayers to contain the rate increase in the 2015/16 budget to less than 7%.

Question 1:

Did the CEO and administration staff prepare the budget according to this council directive? Was the Commissioner made aware of this council commitment to the ratepayers of York by the CEO and administrative staff before and during the preparation of the budget for 2015/16 financial year?

Response:

The Acting CEO relied yes to both of those questions.

Question 2:

Did the CEO and administrative staff provide alternative proposals to a rate increase to fund the financial needs of the Shire for consideration by the Commissioner before the decision to recommend the current budget?

Response:

The Acting CEO stated yes – there were various financial scenarios between 7% and 12.5% presented to a series of workshops. The two major factors were the spending of \$807,824 cash out of the 2014/15 financial years and the need to provide funds for the replacement of plant room equipment at the swimming pool.

The rate was set in conformity with Part 3 of the Local Government (Financial Management) Regulations.

Mrs Robyn Davies**Question 1:**

The Shire sets the rates – why is the west of York rated much higher than the rest of York?

Response:

The Acting CEO stated that rates are based on Landgate valuations. Values are set by the Valuer Generals office.

The Shire President replied that the rate in the dollar is the same across the Shire, however land in the west of York is higher in value than the east of York.

Question 2:

If we have a landfill west of York will our land value drop?

Response:

The Acting CEO stated the Valuer General's office sets the value of the land. If the Valuer General reduces the land value down, rates will go down.

Mr Bill Roy**Question:**

Is there any scope for the elected members to review the budget?

Response:

The Shire President stated the advice from the Department of Local Government is it is not possible to change the rate that is set, however it is possible for elected members to review the budget at the mid year review. The budget cannot be rescinded.

Mrs Lynley Bashford

Would like to move a motion:

That any future purchase of property to be put before the community before the purchase goes ahead. Purchases over \$100,000 to be also put before the public.

Moved: Lynley Bashford

Seconded: Julian Krieg

The Motion was put to the Vote: Carried

Mr Mario Ameduri

Question:

Mr Ameduri raised a number of issues in quick succession, lodged a prepared document with the administration and concluded by asking if the purchase of the land and buildings known as 'Chalkies' be stopped.

Response:

The Shire President stated legal advice was obtained regarding the purchase of Chalkies and settlement will be next week.

Question 2:

Can the house be knocked down?

Response:

The Shire President replied – no. The Shire President stated that he cannot debate the issue with Mr Ameduri, the Commissioner made the decision to purchase the property and he had the powers to do so. The current elected members will work with what we have.

Ms Darlene Barratt

Question 1:

Could we have a draft budget go out and in a months time it could be accepted?

Response:

The Shire President stated that this has happened in the past.

Question 2:

Could we do this again?

Response:

The Shire President stated that a motion can be put.

Motion:

Can the draft budget be put forward and one month later be discussed and accepted.

Moved: Ms Barratt

Seconded: Ms Ferro

The Motion was put to the Vote: Carried

Question 3:

With my understanding of the Local Government Act, in order to revoke the Council decision this needs to be substantiated. How is this done?

Response:

The Acting CEO stated that the Commissioner could over ride the 7% in the Long Term Financial Plan without a Resolution.

Question 4:

As the Commissioner was acting as the Council could the decision to rescind the purchase of the building be carried out?

Response:

The Acting CEO stated that as this was the Commissioner's decision an absolute majority would be required.

Question 5:

Can we have an election earlier as we do not have a quorum?

Response:

The Shire President replied that the Ministers office has advised that there is a statutory period required. The Minister is happy to provide a reduction in numbers and will allow three votes at the next meeting.

Daniel Simms left the meeting at 6.56pm.

Mr Tony Robinson

Question 1:

The elected members are in an impossible position, as the Commissioner was in a caretaker mode, is the Commissioner allowed to make the decision to purchase buildings?

Response:

The Acting CEO stated the Commissioner has the responsibility to do so, however it is not a common practice.

Question 2:

We had meetings with the Commissioner and we explained that the rural community do not have the capacity to pay any more, everyone is fully extended. The Commissioner was reminded of this and he took no notice.

Mr Bill Roy stated that everybody has to live within their budget. The rural community may not be able to pay their rates.

Mr Robinson stated that \$100,000 going out to the community for comment, big items for example Shire plant cost more than \$100,000.

Mr Julian Krieg

Motion:

I move that the York Shire express their extreme displeasure of the community to the Minister and the Department of Local Government about the way Commissioner Best prepared the budget without due respect to the elected council's commitment to contain expenditure to within 7%.

Moved: Mr Julian Krieg

Seconded: Mr Bill Roy

The Motion was put to the Vote: Carried

Dr James Plumridge

Question 1:

The Shire has made no provision in the 2015/16 Budget for repair and restoration work to the Old Convent School. What are its plans, if any, regarding such work? If such plans exist, where will the Shire obtain the money to pay for the work?

Response:

The Shire President stated that at present there are no plans for the building.

Question 2:

Does the Shire intend to carry out Commissioner Best's proposed town square project, his excuse for the purchase of Lots 800 and 801 South Street? If so, when, in what stages, and over what period of time?

Response:

No, planning will be delayed.

Question 3:

If the Shire does intend to carry out that project, will it borrow the money to pay for it, or instead have recourse to raising the rates?

Response:

No plans as yet.

Question 4:

If the Shire does not intend to carry out the project, what does it plan to do with the property?

Response:

The Shire President stated that Councillors have expressed the desire to complete the Community Strategic Plan then make decisions.

Question 5:

Will the Shire obtain from a licensed land valuer a sworn valuation of the property to determine whether or not in making this purchase it got value for money for the ratepayers of York?

Response:

No

Motion:

That Council direct the Acting CEO to obtain without delay from an independent licensed land valuer a sworn valuation of Lots 800 and 801 South Street, York to be published on the Shire official website and otherwise made available for public scrutiny.

Moved: Dr James Plumridge

Seconded: Mrs Roma Paton

The Motion was put to the Vote: Carried

Ms Jane Ferro

Question 1:

What advice did the Acting CEO give to Commissioner James Best about the purchase of Lots 800 & 801 South Street.

Response:

The Acting CEO advised there was a need to undertake a due diligence including structural stability, white ant treatments, and check the memorial on the title. Also needed to obtain advice on raising the loan and the borrowings ratio and what effect would be if we borrowed the money.

Question 2:

Did you consider that the loan was for buying it or getting a loan for the repairs to the swimming pool?

Response:

The Shire President spoke to Jenni Law from the Department of Local Government. The Shire President would like to draw your attention to the fact that the decision making body was Commissioner Best and the administration advised him on what he requested.

Question 3:

What is the Acting CEO's responsibility to our town and the ratepayers in providing advice to Commissioner Best that would put the town into extreme debt we could not afford?

Response:

The loan ratio for the Shire of York is very low for a Shire of this size. With the purchase of the Chalkies building and the swimming pool repairs the desire was to keep the ratio as low as possible.

Question 4:

Would you agree the budget item for the purchase of Lots 800 and 801 was well hidden in the proposed budget?

Response:

The Acting CEO stated there was no intention of hiding the purchase in the budget.

Question 5:

Why did the Acting CEO and Commissioner Best provide such short notice for the Special Council meeting on the 25th June, 2015 which was of significant importance because it concerned the 2015/16 annual budget?

Response:

The series of meetings to adopt the Shire Budget had to be completed within a sequence and the Commissioner's term of office was concluding.

Question 6:

Why did you not heed the concern from ratepayers at several meetings that we could not afford this property that we had not expressed any desire for a Town Square and therefore we did not want the purchase to proceed?

Response:

The Shire President stated that within the structure of Local Government the administration is not in a position to do this, the Commissioner was the decision maker of the day.

Daniel Simms returned to the meeting at 7.17pm.

... The Shire President called a code of conduct and stated there were to be no personal attacks

Question 7:

A structural survey from McDowall Affleck for the building located on the property identified some significant corrective work needed to be carried out on the building to make it safe and habitable. Did you and Commissioner Best set parameters of cost effectiveness rather than required restoration to ensure the building was safe for future use?

Response:

The Acting CEO stated that this issue was discussed and the structural engineers report identified severe cracking, however the building was stable and sound

Question 8:

Why does the report state twice over an alternative to prevent additional cracking, which will require ongoing monitoring and maintenance, is underpinning and pilling. However, this was not recommended because it was not cost effective. Did this not indicate to you the building would require a high level of either repair/restoration or maintenance?

Jenni Law left the meeting at 7.20pm.

Response:

The Shire President stated he is aware of community concern and requirements where recognised by the Council of the day. The Shire President stated that this method of questioning is not helping the community. There is a need to look at the Strategic Community Plan, what does the community require.

Question 9:

Summing up would you say that the Acting CEO has no real responsibility, that he was overridden by Commissioner Best.

Response:

The Shire President replied he could not say. It is not appropriate to allow you to speak this way to a staff member.

Ms Darlene Barratt**Question 1:**

The Strategic Community Plan was changed by Commissioner Best, this was to do with the building.

Jenni Law returned to the meeting at 7.22pm.

Response:

The Shire President stated that the Strategic Community Plan is an over arching document, Hames Sharley will be preparing the document and staff and community members need to contribute. There has been no hand over as yet.

Question 2:

The Strategic Community Plan has to go out to the community.

Response:

The Shire President stated that the community needs to engage in the process.

Question 3:

\$625,000 to purchase of the building, \$300,000 to fix it up, has the Shire sought advice on relinquishing the sale.

Response:

The Shire President stated that the Commissioner had the authority to sign the document.

Mrs Heather Saint

Question 1:

Does State Treasury have charge or a caveat over the property

Response:

The Acting CEO stated that it is a debenture loan, with a debenture loan we can borrow the money, we have no mortgage as such.

Question 2:

If we default on the loan, does the property goes to State Treasury?

Response:

No

Question 3:

State Treasury pay a lot of interest if we default on the loan.

Response:

The Shire President stated that Commissioner Best statement that the Shire of York is near insolvency is not accurate. The community can rest assure the Shire is robust and is not going broke.

Question 4:

The State Treasury cannot take procession of the property?

Response:

The Shire President replied – no.

Mr Mike Gill

Question 1:

Is the Shire Council aware that York is in a seismic zone.

Response:

The Shire President replied – yes.

Question 2:

Why did McDowell Affleck not recognise that York is in a seismic zone, this renders the building unsafe for public use?

Response:

Taken on Notice

Question 3:

I have 27 years of experience and have a post graduate on seismic zones. Why has the Council failed to utilise my services in this community and why am I being ignored?

Response:

The Shire President stated it is not appropriate for the Council of the day to speak about past issues.

Mr Julian Krieg

Motion:

I move that the York Shire express their extreme displeasure of the community to the Minister and the Department of Local Government about the way Commissioner Best without due respect to the elected Councils commitment to developing a Strategic Plan, as yet incomplete, before proceeding with the purchase of "Chalkies' Lot 800 South Street.

Moved: Mr Julian Krieg

Seconded: Ms Jane Ferro

The Motion was put to the Vote: Carried

Mr Mike Gill

Motion:

Council consider its legal position regarding the purchase of the building given that it does not have a statement that the building is not suitable for public use.

Response:

It was stated that it was not a condition on the offer, there is no out on the purchase of the building.

Motion Moved: Mr Mike Gill

Seconded: Mrs Roma Paton

The Motion was put to the Vote: Carried

Ms Felicity Ranger

Question 1:

How long will the Community Strategic Plan take to provide an outcome?

Response:

The Shire President stated that no time frame is currently set. The expectation of the Council today would be three months. The process will the plan will be taken to community workshops, that the elected members will not be present at, and the outcome then taken to the elected members. The process commenced in November last year and normally takes 12 months.

Question 2:

Has a facilitator being budgeted for?

Response:

The Shire President stated that it is fully budgeted.

Question 3:

If the community building is not deemed appropriate for the Community Strategic Plan and the building is sold at a loss does the community just accept it?

Response:

The Shire President stated that it is not appropriate for him to say, elected members could decide to retain it or find another use for it.

Ms Josephine Vincent

Question:

Is there any other Government Department, other than the Department of Local Government, that the community can go to if we are not happy with Commissioner Best's performance?

Response:

The Shire President replied – Minister Simpson

Mr Guy Lehmann

Question:

Is it Council's intention to re-establish the Finance, Risk and Audit Committee (FRAC)?

Response:

The Shire President stated that there is an Agenda item to re-instate the Audit Committee which is not the same as FRAC as there is a requirement to have an Audit Committee. It is my personal opinion that a FRAC committee would be good.

The being no further questions the meeting closed at 7.43pm.