

SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 12 MAY, 2014
COMMENCING AT 4.15pm
IN THE LESSER HALL, YORK**

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SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL
HELD ON MONDAY, 12 MAY 2014, COMMENCING AT
4.15PM IN THE LESSER 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 4.15pm.

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 Suspension of Standing Orders (undergoing the repeal process) –
Clauses 1 to 19 excluding Clause 8.5.1 which states "No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council."

Moved: _____ Seconded: _____ Carried:

1.4 Announcement of Visitors
Anthony Macri, Menon & Mit Gudka – Macri Partners

1.5 Declarations of Interest that Might Cause a Conflict

Financial Interest
Nil

Disclosure of Interest that May Affect Impartiality
Nil

2. ATTENDANCE

- 2.1 Members
*Cr Matthew Reid, Shire President; Cr Mark Duperouzel, Deputy Shire President
Cr Denese Smythe, Cr Pat Hooper, Cr Tony Boyle, Cr David Wallace*
- 2.2 Staff
Michael Keeble, Chief Executive Officer; Helen D'Arcy-Walker, Executive Support Officer
- 2.3 Apologies
Nil
- 2.4 Leave of Absence Previously Approved
Nil
- 2.5 Number of People in Gallery at Commencement of Meeting
There were 24 people in the Gallery at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

- 3.1 Previous Public Questions Taken on Notice
Nil

4. PUBLIC QUESTION TIME

Cr Reid read the following statement at the commencement of Public Question Time:

Statement by the Presiding Member at the Opening of Public Question Time at Ordinary and Special Council Meetings

"Public Question Time is provided for under the provisions of Section 5.24 of the Local Government Act and the Local Government (Administration) Regulations 1996.

To provide equal opportunity for people to ask questions a limit of two (2) questions per person per time will be applied. If there is time available in Public Question Time people may be given the opportunity to ask a further two (2) questions at a time.

Procedures

- Questions submitted in writing prior to the meeting will be dealt with initially.
- Questions from the floor will be taken in the order recorded in a register.
- Statements, opinions and attachments will not be recorded in the minutes.
- Questions requiring research will be taken on notice and a response will be prepared in a reasonable timeframe. The original questions and the response will be included in the Agenda and Minutes of the next Ordinary Council meeting.
- Questions may be deemed inappropriate because they contain defamatory remarks or offensive language, they question the competency of elected members or staff, they relate to the personal affairs of elected members or staff, they relate to legal processes and confidential matters or they have been responded to previously and these will not be accepted or recorded in the Minutes.
- The minutes may only record a summary of the question asked and the response given.
- Where possible questions asked should be submitted in writing at the completion of question time or at the end of the meeting.

- At Special Council Meetings questions must relate to the items on the Agenda.
- Shire of York guidelines for Public Question Time are included on the meeting agenda.”

PRESIDING OFFICER

21 October 2013

4.1 Public Question Time – Written Questions – Current Agenda
Nil

4.2 Public Question Time

Public Question Time commenced at 4.16pm

Mrs Heather Saint

Question 1:

As part of the annual audit committee report for the Shire there is the inclusion of an Independent Auditors Report from Macri Partners stating that an audit includes evaluating the appropriateness of accounting policies used to comply with the AAS, requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996.

It is assumed that each year the Auditor would have read the recommendations from the Shire Accountant (Mr Dominic Carbone) to the audit committee, so could Mr Macri please explain why there appears to have been no audit of the Shire credit cards since he was engaged as the Auditor for the Shire?

Response:

No. Mr Macri stated the risk of fraud was not regarded as high in the overall picture and was not a major problem. Auditors look at risk with large expense items such as wages. Auditors did not regard the credit cards as a major risk. However they will now look at this. The auditors did not acknowledge the credit card was a major risk exposure.

Question 2:

Delegated authority DE1 (use of Municipal funds) does not extend to the use of the Corporate Credit Card by the Chief Executive Office or the Deputy Chief Executive Officer.

As part of the audit and as part of the evaluation of accounting policies, have Mr Macri or Councillors Hooper or Boyle (who were part of the Audit Committee at the time of the recommendation for adoption of this policy through Council), identified with:

- (i) A signed application for a Corporate Credit Card from the previous CEO (Mr Ray Hooper)
- (ii) A copy of the application approved by a resolution of full Council as official authorisation for the incurring of a liability
- (iii) Details of conditions of use, limits, when last reviewed and all as specified in the policy
- (iv) Copies of all registers maintained by the DCEO in accordance with the credit card policy and as required for compliance

Response:

No – Cr Hooper.

Question 3:

Do you know anything regarding the Adoption of Policy in April 2010

Response:

Cr Hooper – no does not recall what he did in 2010. Cr Boyle stated due diligence had been done. Also not certain what happened in 2010.

Question 4:

When was the new Policy in 2010 adopted.

Response:

Taken on Notice

Ms Darlene Barratt

Question 1:

Why is the Shire requesting a report from 1 July 2013 to 31 April 2014 when concerns were raised by ratepayers every year from 2008 till present time. One expenditure on credit cards on several occasions documented in the Minutes was met with Ray Hooper and Council through two Presidents no longer allowing ratepayers to information that ratepayers have a right to under Government Acts which the Council and CEO ignored.

Response:

The Officer Recommendation in Item 5 states that the Auditor may be required to continue to investigate for the prior six years. The appropriate way to undertake the investigation is year by year.

Question 2:

May be or required?

Response:

As stated in the Officer Recommendation it may be required.

Question 3:

Is it a possibility there will be a requirement of 6 years.

Response:

Depends on the decision and what happens at todays meeting.

Mr Simon Saint

Question 1:

Could the two ex Shire Presidents please explain why they both chose to ignore that there may have been issues related to corporate credit card use?

Response:

Cr Hooper responded that it was not the decision of the Shire President, it was the decision of the whole Council. Council moved in the direction they did by 6 votes. Cr Boyle reiterate this comment.

Question 2:

Why did the two ex Shire Presidents allow the previous CEO to conceal credit card statements from public scrutiny?

Response:

Cr Hooped stated – credit card statements were not concealed.

Question 3:

Does the Shire of York Auditor think it reasonable that I should have to lodge a Freedom of Information application to discover how municipal funds have been spent?

Response:

No, I don't think so.

Question 4:

Officer Recommendation Item No. 3 – could this be extended to include – (j) Liquor Purchases; (k) Dining & Entertainment, and (l) Gifts?

Response:

The addition could be carried out. Would need a Mover and Seconder to the motion.

Mrs Tanya Richardson

Question 1:

Is the Council going to put a qualified person on the Audit Committee?

Response:

There will be an Agenda Item for the next Ordinary Council Meeting. The Audit Committee will be replaced with a Finance, Audit and Risk Committee and will meet eleven times per year. Members of the public with suitable qualifications, either by experience or qualification, could be included on the Committee.

Ms Darlene Barratt

Question 4:

How would you as a member of the public be able to go on the Committee?

Response:

An advertisement for expression of interest will be placed for suitably qualified community members. Nomination forms will be made available.

Mrs Anne Chester

Made a statement that in previous Councils it was up to the Councillors to check the accounts and credit card.

Mrs Heather Saint

Question 5:

Has Mr Macri, the appointed Auditor, attended the Audit Committee meetings in York on an annual basis as required by legislation and his agreement of appointment?

Response:

Mr Macri stated they have attended York at least one meeting per year.

Question 6:

According to the Minutes in 2010 the Auditors did not attend.

Response:

As a general rule we do attend.

Question 7:

Having reviewed the Shire of York financials, I have identified areas of concern to include conference expenses for the past CEO, Shire President and Councillors. Could I please request that under Part 7 and/or 8 of the LGA 1995, in addition to auditing the credit cards, these records be cross referenced with an audit of the financial reports and relevant EFT and cheque payments applicable to the date of each conference attendance in past years and any other anomalies?

Response:

This can be looked at.

Question 8:

Could I request an amendment to the dates detailed in the agenda as it would be far more appropriate to initially cover July 2012 to September 2013 and at least the previous financial year July 2011 to June 2012?

Response:

The rates being charged by the Auditors are set by WALGA. Some work may have to be undertaken in house if amendments are made.

Question 9:

In March 2012 the Shire attended a RTG study tour in South Australia, the accommodation alone cost \$12,537.00 (which included payment for other Shire members in the RTG – for 16 rooms over a period of 4 days), and a further \$13,954.35 was spent on the Shire Credit Cards. Could Mr Macri or Council please advise, when the audit checks were carried out, was RTG funding in place for reimbursement and if so was it acquitted or, was this a non budgeted item that required approval of full Council and a majority vote, if so, when did that happen?

Response:

Cr Mark Duperouzel stated that the trip was funded by the State Government. York was acting as the bank.

Question 10:

Was it acquitted?

Response:

Taken on Notice

Mrs Tanya Richardson

Question 2:

Who told the Auditors not to attend the CEO or Council?

Response:

Mr Macri responded he was not sure – could have been by invitation.

Mrs Roma Paton

Question:

I still have CCC file for \$300K for the sale of the Convent. I am happy to hand over to Council.

Response:

Council would support information been given to Auditor. The Shire President suggested that Mrs Paton meet with himself and the CEO as this would be dealt with as a separate matter.

Public Question Time was declared closed by the Shire President at 4.50pm

Mr Anthony Macri presented the below questions to Council:

	MATTERS FOR DISCUSSION	AUDIT COMMITTEE RESPONSE 12 MAY 2014
1	Has this been reported to CCC? If not, checked with Shire's lawyers?	No No
2	External Party's email. • Should we contact the external party to get the information?	Yes
3	Council should advise all the background information relating to the matter and what exactly are the issues of investigation. Including correspondence between the ratepayer and CEO/Council.	Yes Yes
4	If there were specific queries/allegations, wouldn't it be better to look into them first?	Council will direct what to do.

5	<p>7 years Corporate Credit Card expenses</p> <p>(a) It is our suggestion that if a staff at Council office can itemize the expenses on a spreadsheet designed by us and at our supervision it will be cost effective.</p> <p>An indication of our cost</p> <p>(b) We need a contact for queries and other matters that will arise during the course of the investigation work. Otherwise delay may occur in collating information.</p>	<p>Council will advise.</p> <p>Council will advise, but agree in principle.</p> <p>Auditor has indicated staff chargeable rates.</p> <p>CEO will be primary contact.</p>
6	<p>The Investigation Report:</p> <p>Agreed Upon Procedures Engagement</p> <p>Present the details of the expenses incurred and the period to the Council. No opinion is expressed by us</p>	<p>All facts will be presented in a report and submitted to the Audit Committee</p>
7	<p>Council to provide CEO's contract and Code of Conduct</p>	<p>Yes</p>
8	<p>Report will be to the Audit Committee.</p>	<p>Yes</p>
9	<p>We may also discuss some matters with the Department of Local Government and Communities.</p>	<p>Yes</p>

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Nil

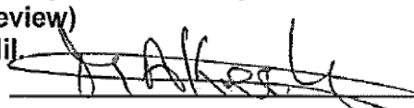
8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

9. OFFICER'S REPORTS

9.4 Financial Reports

9. OFFICER'S REPORTS
9.4 FINANCE REPORTS
9.4.1 Investigate Credit Card Usage

FILE NO: FI.BNK
COUNCIL DATE: 12 May 2014
REPORT DATE: 8 May 2014
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: Michael Keeble, CEO
REPORTING OFFICER: Michael Keeble, CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Policy No. 1.6 – Corporate Credit Cards (under review)
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE CEO:  M. Keeble
Chief Executive

Summary:

To discuss the terms of reference with the Council's Auditors Macri Partners for the purpose of investigating usage of Shire Credit Cards.

Background:

This item arises from public statements issued through the ABC website and the Sunday Times. As a result the Council must pursue this allegation.

Consultation:

Councillors and Council's Auditors.

Statutory Environment:

Local Government Act 1995 section 2.7 (2)(a) and (b)

"2.7. Role of council

- (2) Without limiting subsection (1), the council is to —
- (a) oversee the allocation of the local government's finances and resources;"

Local Government (Financial Management) Regulations 11 (1)(a)

"11. Payments, procedures for making etc.

- (1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —
- (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained;"

Policy Implications:

Financial Management – Corporate Credit Cards – introduced 15th February 2010 currently under review.

Financial Implications:

Await quotation from Auditor this may result in an unbudgeted item.

Voting Requirements:
Simple Majority Required: Yes

OFFICER RECOMMENDATION

“That Council authorise the Chief Executive Officer to obtain a quotation and engage its Auditors to undertake an investigation into the use of the Corporate Credit Cards using the following criteria:

1. *Compare the date of entry on the Credit Card Statement with the actual purchase dates shown on the receipts.*
2. *Compare those dates with:*
 - a) *Day of the week;*
 - b) *Whether or not it was a public holiday;*
 - c) *Whether or not Mr R Hooper was on leave.*
3. *Check the purpose of the purchase and categorise as:*
 - a) *Office purchases;*
 - b) *YRCC purchases;*
 - c) *Library purchases;*
 - d) *Fuel purchases;*
 - e) *Christmas party purchases;*
 - f) *Airfares;*
 - g) *Garden and Home Maintenance;*
 - h) *Training, Conferences and related Accommodation purchases; and*
 - i) *Other to be the subject of further investigation.*
4. *The Auditors shall submit a report from 1 July 2013 to 31 April 2014.*
5. *The Auditor may be required to continue to investigate for the prior six (6) years.”*

AMENDMENT

Moved: Cr Smythe

Seconded: Cr Wallace

“That Council Amend the Officer Recommendation to read:

Authorise the Chief Executive Officer to obtain a quotation and engage its Auditors to undertake an investigation into the use of the Corporate Credit Cards using the following criteria:

1. ***Compare the date of entry on the Credit Card Statement with the actual purchase dates shown on the receipts.***
2. ***Compare those dates with:***
 - a) ***Day of the week;***
 - b) ***Whether or not it was a public holiday;***
 - c) ***Whether or not Mr R Hooper was on leave.***

3. Check the purpose of the purchase and categorise as:

- a) Office purchases;**
- b) YRCC purchases;**
- c) Library purchases;**
- d) Fuel purchases;**
- e) Christmas party purchases;**
- f) Airfares;**
- g) Garden and Home Maintenance;**
- h) Training, Conferences and related Accommodation purchases;**
- i) Liquor purchases;**
- j) Dining and Entertainment, and**
- k) Gifts**

4. The Auditors shall submit a report from 1 July 2011 to 30 June 2012, 1 July 2012 to 30 June 2013 and 1 July 2013 to 30 April 2014.

5. The Auditor may be required to continue to investigate for the prior six (6) years.”

CARRIED: 6/0

**RESOLUTION
020514**

Moved: Cr Smythe

Seconded: Cr Wallace

The amendment became the motion.

CARRIED: 6/0

The Officer Recommendation was amended to allow for greater depth to the Audit.

Item 9.4.1 - Appendices

10. CLOSURE

Cr Reid thanked everyone for their attendance and declared the meeting closed at 5.20pm.