



SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 24 NOVEMBER, 2014
COMMENCING AT 5.10pm
IN THE YORK TOWN HALL, YORK**

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SHIRE OF YORK

THE SPECIAL MEETING OF COUNCIL
HELD ON MONDAY, 24 NOVEMBER 2014, COMMENCING AT
5.10PM 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 5.10pm.

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 – Clause 3.2 – Order of Business

Moved: Cr Hooper

Seconded: Cr Boyle

Carried: 5/0

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 Tony Boyle; Cr Pat Hooper, Cr David Wallace*

2.2 Staff

Graeme Simpson, Acting Chief Executive Officer; Tyhscha Cochrane, Deputy 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 109 people in the Gallery at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Cr Reid provided 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

Public Question Time commenced at 4.14pm

4.1 Public Question Time – Written Questions – Current Agenda

Questions Received:

A list of five (5) questions was received from a former CEO Mr R Hooper who now resides in the metropolitan area.

Response:

Local Government Guidelines No. 3 – Managing Public Question Time – Questions asked in Absentia - Where a person submits a question in writing for public question time but fails to attend the meeting, the presiding member may decide that the question is not to be put to the meeting. In which case, the CEO may reply in writing at a time other than at the meeting.

The Shire President handed the questions to the Acting Chief Executive Officer to handle.

4.2 Public Question Time – Current Agenda

Public Question Time was Opened at 5.15pm

Ms Darlene Barratt

Question 1:

Why is the Agenda item Confidential?

Response

The Shire President stated that advice from the Department of Local Government, as reference to a staff member is made in the document, they have recommended that it be Confidential.

Note: Deputy CEO stated to the Shire President that the Department advised it was a Council decision.

Question 2:

How can the people of this town have input into the document?

Response:

The Shire President stated that the Acting Chief Executive Officer advises it is a recommendation only.

Question 3:

How does the public get their say if this item goes behind closed doors?

Response:

The Shire President stated advice from the Acting Chief Executive Officer that it is a conversation between Council and the Minister's office.

Ms Renee Rees

Question:

This is to all York Councillors, Shire employees and the community of York.

I ask that at this meeting, we all, as a Community resolve to put all differences behind us and work together to repair the damage that has divided this town.

I ask that the rumours, reports and innuendoes concerning the behaviour of the recent CEO, the behaviour of our Shire President, the behaviour of certain Councillors and the behaviour of members of the public, are over and we can move forward.

I ask our Councillors to leave their egos at home and work together.

I ask the ratepayers of York to respect the difficulty in making decisions for the majority of the community.

I would like to ask the community members who vent their displeasure at an unfavourable decision by resorting to hate mail and phone calls to councillors, and even more cowardly, to their families and businesses to grow up and behave like the responsible adults they purport to be.

If these requests are beyond their capabilities, then I would like to ask that a Commissioner be appointed immediately and the important and adult task of running our Shire be removed from our control.

Response:

The Shire President stated that Councillors take an Oath of Office to make decisions to the best of their ability with the information at hand.

Note: Comments relating to staff withdrawn.

Mr Denis Hill

Question 1:

Can a Public Question Time be added to the end of the meeting?

Response:

Council decision.

Question 2:

Can I assume the Confidential item refers to a letter from Minister Simpson?

Response:

Yes

Question 3:

Would Council convene an Electors meeting?

Response:

The Shire President will be happy to put request before Council at the appropriate time during the meeting.

Public Question Time was Closed at 5.21pm

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATION / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Nil

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

REPORTS

9. MATTERS FOR RESOLUTION

10. CLOSURE

9 MATTERS FOR RESOLUTION
9.4 FINANCIAL REPORTS
9.4.1 Avon Tourism York Request for Seed Funding for 2015 Jazz Festival

FILE NO: CS.CEV.2
COUNCIL DATE: 24 November 2014
REPORT DATE: 23 November 2014
LOCATION/ADDRESS: N/A
APPLICANT: COUNCIL
AUTHOR: Cr Matthew Reid/Mr Graeme Simpson
DISCLOSURE OF INTEREST: N/A
APPENDICES: • Correspondence - Chair Avon Tourism York to Shire of York Shire President
• Correspondence - Chair Avon Tourism York to Shire of York A/CEO
• Avon Tourism York Jazz Festival Environmental Policy
• Avon Tourism Business Plan for York Jazz Festival
• CRC Sustainable Tourism – Estimating the Economic Impacts of Festival & Events: A Research Guide
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

RESOLUTION
581114

Moved: Cr Boyle

Seconded: Cr Smythe

“That Council:

1. *Support Avon Tourism York to hold a York Jazz Festival in 2015.*
2. *Transfer \$30,000 from account 138160 Community/Economic Development Officer Salaries to account 132150 Festival Assistance.*
3. *Defer any consideration of the Economic Development Officer until after the completion of the Mid Year Review Process (February 2015).*
4. *Authorise the A/CEO to provide \$30,000 from account 132150 Festival Assistance York as seed funding for the 2015 York Jazz Festival.*
5. *Authorise A/CEO to pay accounts as and when required up to a value of \$30,000 for a Consultant to prepare grant applications and Start Up Fees for Avon Tourism York – Jazz Festival 2015.*
6. *Requests Minutes and Reports to be presented to Council monthly in accordance with the Project Plan and reporting mechanism to be determined.”*

CARRIED: 5/0

Voting Requirements:
Absolute Majority Required: Yes

Summary:

There is broad based support from both within Avon Tourism York and the community in reinvigorating the iconic York Jazz Festival. A business plan has been developed to ensure the return of this event from Nov 6th - 8th November 2015, with a five - year plan underpinning the 2015 event.

This event is one that Avon Tourism York believe can again be York's major event each calendar year. Research recently conducted by the York CRC suggests major events are a high priority to our community. The intention is to have York buzzing with atmosphere leading up to and during the event weekend, returning the York Jazz Festival firmly on the Western Australian regional events calendar as a major tourism activity.

Background:

The York Jazz Festival was last held in 2010.

There is a sense of urgency as the applications to a number of funding sources close shortly. In particular the Wheatbelt Development Commission administered Royalties for Regions Wheatbelt Community Chest Fund applications must be submitted by 11 December 2014 and Tourism WA Regional Events Scheme for 2015/16 applications must be submitted by 12 January 2015.

York Jazz Festivals are synonymous with a blend of established and emerging Australian and International jazz & soul artists across multiple stages covering traditional jazz, be-bop, improvisational jazz, modern jazz, dixieland, soul, youth jazz, swing, gospel, funk, nu-jazz and everything in between.

Typically the festival includes everything else you need to have the perfect weekend; Premium food and beverages; a poker den; special areas to park and display rare/vintage motor vehicles; ergonomic site design for your comfort; coach options, day passes and weekend passes for convenience; dancing demos and much, much more.

Consultation:

Cr Reid
Cr Smythe

Statutory Environment:

Section 1.4 (a) of the Local Government Act

1.4. Terms used

In this Act, unless the contrary intention appears —

absolute majority —

- (a) *in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;*

Policy Implications:

Draft Events Policy

Financial Implications:

The 2014/15 budget provided \$76,111 for an Economic/Community Development Officer. The Shire has not engaged the services of an Economic/Community Development Officer and as such the funds allocated for the purpose have not been acquitted.

As this is a request for ongoing support it should be noted that once an Economic Development Officer is appointed that it may be that in future funds will not be provided but in-kind services ie grant writing.

Considering the Shire of York's current financial environment it should be noted that until a detailed budget review has been carried out as per Local Government Financial Management Regulations 1996 section 33A it is unsure if all unbudgeted expenditure has been counted for and that consideration be given not to appoint an Economic Development Officer until after the review has been conducted (February 2015 Council meeting considers the mid year review).

Strategic Implications:

Community Strategic Plan

Site Inspection:

Site Inspection Undertaken: N/A

Triple bottom Line Assessment:

Economic Implications:

The Jazz Festival is expected to bring several thousand visitors to York delivering an economic opportunity for all retail and hospitality businesses within the shire.

Surveys of local businesses after similar festivals in regional towns reported a very positive attitude towards festivals. They saw them as:

- Good for the town/area and local communities (93% of respondents)
- As making a good contribution to the development of tourism (85% of respondents)
- Enhancing the image of an area as a place to live (84% of respondents)

Social Implications:

The Jazz Festival will provide an opportunity for the York Community to interact socially. Events of this nature rekindle positive community based feelings. Recent research by the UK Arts Council showed that more than 64% of festival attendees felt more positive about the place that the festival was held. This demonstrates that festivals can be an important factor in improving perceptions of places and people. This research study also found that almost 70% of the audience would be more likely to return and attend other events in the future.

Environmental Implications:

Nil

Officers Comment:

The Avon Tourism York group is an independent body, who is affiliated with Avon Tourism. The Group are working towards incorporation and therefore until such time as this is done accounts will be required to be submitted for payment.

The urgency relates to the Wheatbelt Development Commission – Community Chest funding applications being required by the 11 December 2014.

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.1 Close the Meeting

FILE NO:
COUNCIL DATE: 24th November, 2014
REPORT DATE: 24th November, 2014
SENIOR OFFICER: Graeme Simpson, A/CEO
REPORT APPROVED BY THE A/CEO: Graeme Simpson

RESOLUTION
591114

Moved: Cr Hooper

Seconded: Cr Boyle

“That Council:

Close the meeting to members of the public and the press to deal with:

Matters relating to an employee.”

LOST: 3/2

Reason - Council believes in open and accountable governance. Although a past employee is mentioned in the item he will not be discussed.

Voting Requirements:
Simple Majority Required: Yes

Statutory Environment:
Local Government Act 1995 – Part 5 – Division 2 – Section 5.23:

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*

Note to this Item:

The doors were Closed at:

9. MATTERS FOR RESOLUTION

9.6 REPORT

9.6.2 Show Cause Notice [Section 8.15B(1)] Local Government Act 1995

FILE NO: OR.IGR.3
COUNCIL DATE: 24 November 2014
REPORT DATE: 24 November 2014
SENIOR OFFICER: Graeme Simpson, A/CEO
AUTHOR: Graeme Simpson, A/CEO
APPENDICES: Show Cause Notice [Section 8.15B(1)] –
Local Government Act 1995

REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

OFFICER RECOMMENDATION

Moved: Cr Boyle

Seconded: Cr Smythe

“That Council:

- 1. Receives the Show Cause Notice [Section 8.15B(1)] Local Government Act 1995 and provides a response within 21 days; and*
- 2. Discuss and determines a suitable response to the Minister’s intention to make an order under section 8.15C(2) of the Local Government Act.”*

AMENDMENT

Moved: Cr Reid

Seconded: Cr Smythe

“That Council Amend the Officer Recommendation to read:

- 1. Receives the Show Cause Notice [Section 8.15B(1)] Local Government Act 1995 and provides a response within 21 days; and*
- 2. Request the CEO seek clarification from Minister Simpson’s office regarding matters raised in the Show Cause Notice (Section 8.15(1)) Local Government Act 1995 issued by Minister Simpson 18 November, 2014 before any discussion and draft response is prepared.”*

CARRIED: 5/0

RESOLUTION

601114

Moved: Cr Smythe

Seconded: Cr Wallace

The amendment became the motion.

CARRIED: 5/0

Voting Requirements:

Simple Majority Required: Yes

Summary:

Council was issued a Show Cause Notice on the 20th November 2014 and as a result the Shire President and Acting Chief Executive Officer are required to present to Council at the first available opportunity to enable the preparation and submission of the required response within the period advised.

Background:

A Probity Audit commenced and the Department of Local Government and Communities have been monitoring the operations and affairs of the Shire of York.

The documentation relating to the Show Cause Notice was provided to each individual Councillor.

Statutory Environment:

Local Government Act.

Whether this item goes behind closed doors for discussion needs to be determined, as this relates to a previous staff member.

Officer's Comments:

Council should discuss the suspension of Council and the requirement of all members of Council to undertake governance training in the responsibilities and functions of a council under the Act, such training to focus on the statutory compliance duties of a local government.

**RESOLUTION
611114**

Moved: Cr Wallace

Seconded: Cr Smythe

“That Council:

Hold a second Public Question Time.”

CARRIED: 5/0

Public Question Time re-commenced at 5.36pm

Mr Denis Hill

Question:

Would Council call an Electors meeting within 14 days from today.

Response:

The Shire President put it to Councillors.

**RESOLUTION
621114**

Moved: Cr Smythe

Seconded: Cr Wallace

“That Council:

Hold an Electors meeting within 14 days from today.”

CARRIED: 5/0

Mr Ainsworth

Question:

Is the Minister for Local Government going to give extra time to respond?

Response:

The Shire President stated will seek clarification not seek more time.

Question:

Will Council consider seeking more time from the Minister?

Response:

The Shire President stated yes Council would consider that. However would need a resolution to do so.

Mr Denis Hill

Question:

Does the Electors meeting fall in the date of response to Minister?

Response:

The Shire President stated yes it does. Require a minimum notice of 7 days for an Electors meeting to be held.

Mrs Yvonne Dols

Question:

Could we not make it a general music festival not just a Jazz Festival as we seem to be flogging a dead horse?

Response:

The Shire President stated that \$30,000 for seed funding is for a Jazz Festival.

Question:

Who is going to pay for the Jazz Festival why not have a general Music Festival?

Response:

The Shire President stated a detailed business plan has been provided by the Tourist Group. Details can be found in the Agenda appendices.

The decision has been made – Council has resolved to provide \$30,000 – it is up to the group to find extra money that is required for the Jazz Festival.

Mrs Yva Kane

Question:

New Chief Executive Officer surname is Simpson – the Ministers surname is Simpson - sometimes when you are speaking we are not sure who you are speaking about.

Response:

Clarification is duly noted.

Mr Simon Saint

Question:

Will the Minister's letter be included in today's Minutes.

Response:

The Shire President stated that as the item is not deemed Confidential, yes it will be.

Question:

Will future correspondence to do with this be included in the Minutes?

Response:

The Shire President stated he was not sure how to answer the question – Minister Simpson's correspondence may be confidential.

Shire President said we are an open and accountable Government – the document is not flattering to myself and I chose for it to become public.

Ms Philippa Corteen

Question:

Can't be involved if she can't hear.

Response:

Council and administration were not aware how many were attending. So sound system was not set up.

Ms Jane Ferro

Question:

Do we need 100 signatures for an Electors meeting?

Response:

The Shire President stated that no you don't as there is a Council Resolution.

Mrs Kerryn Oliver

Question:

If Minister does not respond in the required time, what happens?

Response:

The Shire President stated that he has assurance from the Acting Chief Executive Officer that a prompt reply will be received from Minister Simpson.

Ms Lynley Bashford

Question 1:

Why are we here today? If the Acting Chief Executive Officer hasn't had time to look into anything?

Response:

The Shire President read the closing comments of Minister Simpson's letter. Required to do today. Document is now a public document. Council cannot debate this document without information from the Acting Chief Executive Officer, Graeme Simpson. Today's meeting is about allowing the Acting Chief Executive Officer, Graeme Simpson to gather the required information.

Question 2:

Will this go further with these allegations?

Response:

The Shire President stated there will need to be another Council meeting to discuss the response. It is a multiple step process.

Question 3:

If the Community wants to have input – what should be done?

Response:

The Shire President stated that this can be discussed at the Electors meeting.

Mrs Sandra Paskett

Question:

As there is 21 days to respond and you may need legal advice – is that something you may need to deal with today?

Response:

The Shire President stated that the Acting Chief Executive Officer advises that under delegated authority, he has the authority to seek that advice.

Mrs Roma Paton

Question:

Are the accusations directed to the current Shire President or the previous Council of 6-8 years?

Response:

The Shire President stated that the Probity Audit was from January 2014.

Mr Bill Cebula

Question:

Will you consider asking the Minister for Local Government for extra time to respond?

Response:

The Shire President stated that if the Acting Chief Executive Officer thinks extra time is required he will ask the Minister for Local Government for it.

Mr Richard Bliss

Question:

Would you have any objections if the community lobbied the Minister?

Response:

The Shire President stated it would be appropriate for ratepayers to lobby the Minister and Council have no objections to ratepayers doing so.

Mr Mike Gill

Question 1:

Given that you had the initiative to develop Committees, will the work of these Committees be pushed aside?

Response:

The Shire President stated that all Committees will be dissolved and it would at the discretion of the Commissioner to reconvene those Committees or not.

Question 2:

Section 5.92 of the Local Government Act – Access to information by Council, Committee Members. We have raised questioned through these Committees will these questions be answers?

Response:

Section 5.92 Council or Committee Members can make a decision – Section 5.92 will stand.

Public Question Time Closed at 6.08pm

10. CLOSURE

Cr Reid thanked everyone for their attendance and declared the meeting closed at 6.09pm