



SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 20 AUGUST, 2014
COMMENCING AT 4.48PM
IN THE COUNCIL CHAMBERS,
YORK TOWN HALL, YORK**

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SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL
HELD ON WEDNESDAY, 20 AUGUST 2014, COMMENCING AT
4.48PM IN THE COUNCIL CHAMBERS, 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 declared the meeting open at 4.48pm

- 1.2 Disclaimer
The Deputy 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 10.5 – Breaking Down of Complex Motion

Moved: Cr Hooper Seconded: Cr Wallace Carried: 5/0

- 1.4 Announcement of Visitors
Nil

- 1.5 Declarations of Interest that Might Cause a Conflict

Financial Interest

Cr Matthew Reid – 9.6.2.2 – Financial
Cr Mark Duperouzel - 9.6.2.2 – Financial
Cr Pat Hooper – 9.6.2.2 – Financial
Cr Denese Smythe – 9.6.2.2 – Financial
Cr David Wallace – 9.6.2.2 - Financial

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 Pat Hooper, Cr Denese Smythe, Cr David Wallace*
- 2.2 Staff
Michael Keeble, Chief Executive Officer
- 2.3 Apologies
Nil
- 2.4 Leave of Absence Previously Approved
Cr Tony Boyle
- 2.5 Number of People in Gallery at Commencement of Meeting
There were nil 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

Public Question Time Opened at 4.50pm

Public Question Time Closed at 4.51pm

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

REPORTS

9. MATTERS FOR RESOLUTION

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

FILE NO:
COUNCIL DATE: 20 August 2014
REPORT DATE: 20 August 2014
SENIOR OFFICER: Michael Keeble, CEO
REPORT APPROVED BY THE CEO: Michael Keeble

RESOLUTION
430814

Moved: Cr Hooper

Seconded: Cr Smythe

"That Council:

Close the meeting to members of the public and the press to discuss a legal matter."

CARRIED: 5/0

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 —*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*

Note to this Item:

The doors were Closed at: 4.51pm

The doors were Opened at: 5.14pm

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.2 Legal Advice

FILE NO: OR.CMA.5
COUNCIL DATE: 20 August 2014
REPORT DATE: 20 August 2014
LOCATION/ADDRESS: Not applicable
APPLICANT: Shire of York
SENIOR OFFICER: Michael Keeble, CEO
AUTHOR: Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Yes
Correspondence from Imperial Hotel owners
(Saville Wright/Vincenti)
Correspondence from Mr R Hooper
REPORT APPROVED BY THE CEO: Michael Keeble

OFFICER RECOMMENDATION

"That Council authorise the Chief Executive Officer:

1. *to seek legal advice from Feinauer Commercial Solicitors concerning the following matters:*

Fitzgerald Report available on social media – Facebook and Blog Sites;

Future Dealings with Mr and Mrs Saint due to current notice of intention relating to legal matters;

Imperial Hotel – taking advice from Lawyers, victims of failures of local government – intend suspending rate payment;

Mr Ray Hooper potential offence of criminal defamation.

2. *to take all legal action necessary from Feinauer Commercial Solicitors; and*
3. *Take fees from account 41105 Sponsorships and 42169 Consultant Fees to fund contingency for legal matters associated with elected members account 41115.*

**RESOLUTION
440814**

Moved: Cr Wallace

Seconded: Cr Hooper

Prior to this item being put a procedural motion in terms of Standing Orders 10.5 was put to split this Agenda item into five (5) separate motions.

CARRIED: 5/0

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.2 Legal Advice
9.6.2.1 To Seek Legal Advice

FILE NO: OR.CMA.5
COUNCIL DATE: 20 August 2014
REPORT DATE: 20 August 2014
LOCATION/ADDRESS: Not applicable
APPLICANT: Shire of York
SENIOR OFFICER: Michael Keeble, CEO
AUTHOR: Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Yes
REPORT APPROVED BY THE CEO: Michael Keeble

**RESOLUTION
450814**

Moved: Cr Hooper

Seconded: Cr Duperouzel

“That Council authorise the Chief Executive Officer:

to seek legal advice from Feinauer Commercial Solicitors concerning the following matters:

Fitzgerald Report available on social media – Facebook and Blog Sites;

CARRIED: 5/0

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.2 Legal Advice
9.6.2.2 Notice of Intention

FILE NO:	OR.CMA.5
COUNCIL DATE:	20 August 2014
REPORT DATE:	20 August 2014
LOCATION/ADDRESS:	Not applicable
APPLICANT:	Shire of York
SENIOR OFFICER:	Michael Keeble, CEO
AUTHOR:	Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Yes
	Correspondence from Imperial Hotel owners (Saville Wright/Vincenti)
REPORT APPROVED BY THE CEO:	Michael Keeble

**RESOLUTION
460814**

Moved:

Seconded:

“That Council authorise the Chief Executive Officer to seek advice from Feinauer Commercial Solicitors concerning:

Future Dealings with Mr and Mrs Saint due to current notice of intention relating to legal matters; and

Imperial Hotel – taking advice from Lawyers, victims of failures of local government – intend suspending rate payment.

Commentary – As all members present have declared a Financial Interest in this matter the Chief Executive Officer stated that this item may not be put due to the lack of a quorum. Furthermore the Chief Executive Officer will seek advice from the Minister of Local Government.

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.2 Legal Advice
9.6.2.3 Criminal Defamation

FILE NO: OR.CMA.5
COUNCIL DATE: 20 August 2014
REPORT DATE: 20 August 2014
LOCATION/ADDRESS: Not applicable
APPLICANT: Shire of York
SENIOR OFFICER: Michael Keeble, CEO
AUTHOR: Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Yes
Correspondence from Mr R Hooper
REPORT APPROVED BY THE CEO: Michael Keeble

RESOLUTION
470814

Moved: Cr Hooper

Seconded: Cr Duperouzel

*"That Council authorise the Chief Executive Officer to seek legal advice relating to:
Mr Ray Hooper potential offence of criminal defamation.*

CARRIED: 5/0

AMENDMENT WAS MOVED:

Moved: Cr Hooper

Seconded: Cr Wallace

"That Council Amend the Officer Recommendation to read:

*That Council direct the Chief Executive Officer to seek legal advice where appropriate
from Feinauer Commercial Solicitors and take additional action where required."*

CARRIED: 5/0

RESOLUTION
480814

Moved: Cr Hooper

Seconded: Cr Smythe

The amendment became the motion.

CARRIED: 5/0

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.2 Legal Advice
9.6.2.4 Legal Action

FILE NO: OR.CMA.5
COUNCIL DATE: 20 August 2014
REPORT DATE: 20 August 2014
LOCATION/ADDRESS: Not applicable
APPLICANT: Shire of York
SENIOR OFFICER: Michael Keeble, CEO
AUTHOR: Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE CEO: Michael Keeble

**RESOLUTION
490814**

Moved: Cr Duperouzel

Seconded: Cr Smythe

“That Council authorise the Chief Executive Officer:

to take all legal action necessary from Feinauer Commercial Solicitors.”

CARRIED: 5/0

AMENDMENT

Moved: Cr Hooper

Seconded: Cr Wallace

“That Council Amend the Officer Recommendation to read:

to take all legal action necessary on Item 9.2.1.1 from Feinauer Commercial Solicitors.”

CARRIED: 5/0

**RESOLUTION
500814**

Moved: Cr Hooper

Seconded: Cr Wallace

The amendment became the motion.

CARRIED: 5/0

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.2 Legal Advice
9.6.2.5 Fees

FILE NO: OR.CMA.5
COUNCIL DATE: 20 August 2014
REPORT DATE: 20 August 2014
LOCATION/ADDRESS: Not applicable
APPLICANT: Shire of York
SENIOR OFFICER: Michael Keeble, CEO
AUTHOR: Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil
REPORT APPROVED BY THE CEO: Michael Keeble

**RESOLUTION
510814**

Moved: Cr Hooper

Seconded: Cr Wallace

Absolute Majority Required: 4 votes

“That Council authorise the Chief Executive Officer to:

Take fees from account 41105 Sponsorships and 42169 Consultant Fees to fund contingency for legal matters associated with elected members account 41115.”

AMENDMENT

Moved: Cr Duperouzel

Seconded: Cr Smythe

“That Council Amend the Officer Recommendation to read:

To fund Items 9.2.1.1, 9.2.1.3 and 9.2.1.4 and to take funds from Account 41105 Sponsorships and 42169 Consultant Fees for these legal matters and transfer to Administration - Legal Fees General Ledger 42195.”

CARRIED: 5/0

**RESOLUTION
520814**

Moved: Cr Hooper

Seconded: Cr Smythe

The amendment became the motion passed by an Absolute Majority of four (4) votes.

CARRIED: 5/0

9. MATTERS FOR RESOLUTION
9.6 CONFIDENTIAL REPORTS
9.6.3 Open the Meeting

FILE NO:
COUNCIL DATE: 20 August 2014
REPORT DATE: 20 August 2014
SENIOR OFFICER: Michael Keeble, CEO
REPORT APPROVED BY THE CEO: Michael Keeble

RESOLUTION
530814

Moved: Cr Hooper

Seconded: Cr Wallace

"That Council:

Open the meeting to members of the public and the press."

CARRIED: 5/0

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 —*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*

Note to this Item:

The doors were Closed at: 4.51pm

The doors were Opened at: 5.14pm

10. CLOSED:

Cr Reid closed the meeting at 5.14pm.