



SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 2 JULY 2015
COMMENCING AT 5.00pm
AT THE YORK RECREATION &
CONVENTION CENTRE, YORK**

Table of Contents

1.	OPENING	5
	1.1 Declaration of Opening	5
	1.2 Disclaimer.....	5
	1.3 Standing Orders.....	5
	1.4 Announcement of Visitors	5
	1.5 Declarations of Interest that Might Cause a Conflict.....	5
	Financial Interests	5
	Disclosure of Interest that May Affect Impartiality	5
2.	ATTENDANCE	6
	2.1 Commissioner.....	6
	2.2 Staff.....	6
	2.3 Apologies.....	6
	2.4 Leave of Absence Previously Approved.....	6
	2.5 Number of People in Gallery at Commencement of Meeting.....	6
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	6
	3.1 Previous Public Questions Taken on Notice.....	6
4.	PUBLIC QUESTION TIME.....	6
	4.1 Written Questions – Current Agenda.....	7
	4.2 Public Question Time.....	7
5.	APPLICATIONS FOR LEAVE OF ABSENCE	10
6.	PETITIONS / PRESENTATIONS / DEPUTATIONS.....	10
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS & NOTES OF THE AGENDA SETTLEMENT BRIEFING	11
8.	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	11
9.	OFFICER’S REPORTS.....	11
	9.1 Development Services.....	13
	9.2 Administration Reports	13
	9.2.1 Purchase of 25 & 27 South Street, York.....	13
	9.2.2 Application for Leave Without Pay – Acting Chief Executive Officer	15
	9.2.3 Application for a Loan.....	17
	9.2.4 MOU between York Racing Inc and the Shire of York.....	19
	9.3 Works Reports	21
	9.4 Financial Reports.....	21
	9.5 Late Reports.....	21
	9.6 Confidential Reports.....	21
	9.6.1 – Staff Matter – Appointment of Manager Development Services	21
10.	CLOSURE	21



SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL
HELD ON THURSDAY, 2ND JULY, 2015, COMMENCING AT
5.00PM AT THE YORK RECREATION & CONVENTION CENTRE, 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

Commissioner, James Best, declared the meeting open at 5.00pm.

1.2 Disclaimer

The Commissioner 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

Commissioner declared current Standing Orders will apply.

1.4 Announcement of Visitors

Commissioner, James Best welcomed Crs Reid, Smythe, Hooper and Wallace, Freeman Gordon Marwick

1.5 Declarations of Interest that Might Cause a Conflict

Financial Interests

Graeme Simpson, Acting CEO – Item 9.2.2 – Application for Leave Without Pay – Financial Interest

Disclosure of Interest that May Affect Impartiality

Nil

2. ATTENDANCE

2.1 Commissioner
James Best

2.2 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

2.3 Apologies
Nil

2.4 Leave of Absence Previously Approved
Nil

2.5 Number of People in Gallery at Commencement of Meeting
There were approximately 80 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

The Presiding Member to read the following statement in full 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 Written Questions – Current Agenda

Nil

4.2 Public Question Time

- *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.*

Public Question Time commenced at 5.03pm

The Commissioner announced that Public Question Time would be for 15 minutes only which is in accordance with the Local Government Act 1995.

Cr Denese Smythe

Question 1:

Did Commissioner Best in his role as Council review the Long Term Plan on page 38 under borrowings – the Shire will be prudent and fiscally responsible.

Response:

Commissioner stated yes I did.

Question 2:

Why is Commissioner Best putting this community into debt two days before his term is up?

Response:

The Commissioner stated that what the Shire was doing is taking a loan with the WA Treasury at 3.5% interest which will cost \$120,000 with interest over the life of the loan. The old School also has a potential income from initially leasing the building.

There have been a number of studies conducted over the years into the Town Square concept.

It is stated in a survey conducted in 1977 that the Proclamation of the Avon Terrace Precinct and Blandstown Precinct within the Conservation Area has two areas of related buildings of value in the built environment of the Townsite that need to be conserved and rehabilitated in order to:

- Retain and improve the surviving historical character of the two most significant parts of the Townsite area.
- Provide viable business and residential areas of visual quality in the town.
- Promote the industry of tourism to replace the past decline in business activity.
- House a home-type craft industry to retain people resident in the town, to provide job opportunities for a section at least of the residential population and to attract tourist visitation and buying.

In 2006 Hames Sharley prepared a draft Town Centre Outline Development Plan and Report. Under the heading 'Town Centre' one of the issues identified was a lack of a 'core' to the Town Centre area and an opportunity exists for the establishment of a 'village green'.

We also are currently having prepared the 'York Cultural Heritage Interpretation Master Plan' and it is stated in this report that the introduction of two town squares will provide for some smaller scale activities. The Consultant also stated in the Recommendations – Review the streetscape particularly at the town entry and along Avon Terrace and create a space that people want to spend time in and that lets everyone know that York is a town that is loved and cared for.

Mr Mike Gill

Question 1:

Who is the Consultant Building Surveyor referred too. Was an inspection of the property carried out and if so, when and was a report prepared. When did McDowell Affleck, Structural Engineers, carry out their inspection of the property and is there a report available.

Response:

The Commissioner responded – yes to all.

The Acting CEO stated that there is a report from McDowall Affleck. Martin Roddis of Hendry Group is our Consultant Building Engineer.

Question 2:

Having previously been engaged to inspect this building in my role as a Consulting Engineer I can confirm that the front wall and both entrance portals to the main hall are unstable due to severe cracking and displacement of sections of wall. Who has stated that this building is structurally sound given that where I to be asked to verify the structural stability of the building I could not. In fact I would be forced by my duty of care to condemn the building as unfit for public use as York is in an active seismic zone.

Response:

The Acting CEO read from the Consulting Engineers report the conclusion reached.

The building is in fair structural condition when considering its age. However, there are several areas of concern that should be repaired as noted. As the cracking appears to be caused by the reactive soils, additional minor cracking is likely to reappear over time and may require additional maintenance. There are other options that will reduce the likelihood of cracking such as underpinning and piling, however, these options are not recommended because they are unlikely to be cost effective.

Mr Chris Winton

Question 1:

With regards to these items tonight, does this mean the Budget passed last week is defective?

Response:

The Acting CEO stated the Budget that was approved was from the 1st July, 2015 for the full twelve months. The items were actioned by obtaining prices, these draft Resolutions are to confirm the actions taken.

Question 2:

Was the offer made before the items were approved in the Budget?

Response:

The Commissioner stated that there was a condition on the purchase that finance would be made available. It was also a condition that the structural engineering report was required and to be taken into account.

The Commissioner asked the community to consider the bigger picture of a vibrant town square with festivals and events with the added benefit of additional income for businesses within the town. An increase in activity in the town will see an increase in the activity for business.

Ms Jane Elise Ferro**Question 1:**

Under what authority are you acting to be able to autocratically oppose the will of the ratepayers regarding the purchase of Chalkies as evidenced by the questions opposing it at last Thursday's Special Council Meeting?

Response:

The Commissioner advised the Local Government Act 1995 he is authorised to make a decision that is in the best interest of the community.

Question 2:

Where is the sworn valuation from an independent licensed land valuer to confirm what this property is actually worth?

Response:

The Acting CEO responded that the Shire of York does not have a sworn valuation of the property. There is only a need for a sworn valuation if you are going to dispose of a property.

Question 3:

I noted in Item 9.2 – 'very little interest has been shown by the private sector'. Why do you think that is true? Doesn't that tell you something about the price and condition of the building? If both of you (James Best and Graeme Simpson) believe the price of \$625,000 is such a good deal, why don't both of you buy it personally?

Response:

The Acting CEO responded that the full price was \$700,000 which was out of the Shires range. It is also understood that offers of \$550,000 were made and refused. The Shire only wanted to go to \$600,000 but we had to compromise to make the deal.

Question 4:

Where is the money to bring the building up to scratch?

Response:

The Acting CEO stated the Shire has not had a formal assessment made because the usage has not been finalised.

Question 5:

The Commissioner is an agent where is his authority?

Response:

The Commissioner reminded the meeting he is the Council.

Public Question Time concluded at 5.25pm

Mr Peter Boyle stood and requested moving a motion of no confidence.

Which the Commissioner dismissed.

Councillor Reid stood at the lectern to speak – the Commissioner stated to him that as a Suspended Elected Member he did not have standing to address the Council, notwithstanding Public Question Time having been closed.

Mr Julian Krieg interjected stating he objected to this issue.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Request for a Special Meeting

A formal request for a Special Meeting of Electors has been lodged at the Shire Office on Monday morning 29 June, 2015 seeking further discussions on the following issues:

1. The Shire of York Annual Budget 2015/16
2. Purchase of Lots 800 & 801 South Street, York
3. Borrowing \$625,000 to fund the purchase of Lots 800 & 801 South Street, York

Section 5.28 of the Local Government Act prescribes the criteria for the authentication of the request and the procedure to be followed.

The 259 signatures on the request satisfies the requirement and Section 5.28(4) prescribes that a meeting is to be held on a day selected by the Mayor or President (Commissioner) but not more than 35 days after the receipt of the request.

Advertising requirements state that 14 days notice must be given for the holding of such a meeting.

A verbal request was made to have the Special Electors Meeting during the Commissioners term of office but this is not possible as he steps out of office at midnight on Monday, 6th July, 2015.

Section 5.33 sets out the manner in which decisions of Electors meetings are to be actioned. The decisions made are to be considered at the next Ordinary Council meeting but are not binding on Council, however the reasons for Council decision must be recorded in the Minutes.

The Commissioner received the Petition and advised he would refer it to the reconvened Council to set a date for the Special Electors meeting.

Mr Julian Krieg stated that it is inappropriate to close public question time and we should all go.

The Commissioner asked the gallery to either leave the meeting or if they wished to continue talking outside or return to their seats and be quiet.

The meeting was adjourned at 5.28pm

The Police were requested by the Commissioner to ask the room to be quiet to allow the meeting to continue.

The Commissioner stated that a Police Officer has the power under section 50(1) of the *Police Act 1892* to order a person to leave a public place if he or she suspects that the person 'is hindering, obstructing or preventing any lawful activity that is being, or is about to be, carried out by another person.'

The Police requested those who wish to continue speaking to leave the room.

The meeting reconvened at 5.38pm

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS & NOTES OF THE AGENDA SETTLEMENT BRIEFING

Nil

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Commissioner outlined expenditure that was putting the Shire of York on a path heading for insolvency. Expenditure of \$807,824 is since 1 March, 2014 and the 2014/15 Financial year

Fitz Gerald	\$38,380	
Legal	\$140,354	
Consultants to Replace Staff	\$393,000	
Staff Payouts	\$77,090	
PPR	\$33,000	(Brand reputation management and corporate communication)
Governance	\$126,000	
TOTAL	\$807,824	includes GST

The above costs excludes – opportunity costs e.g. Economic Development Officer generating income; staff replacement costs; loss of corporate knowledge; advertising costs for positions; lost staff time chasing complaints.

9. OFFICER'S REPORTS

9.1 Development Services

Nil

9.2 Administration Reports

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.1 Purchase of 25 & 27 South Street, York

FILE NO:
COUNCIL DATE: 2 July 2015
REPORT DATE: 29 June 2015
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Draft Concept Statement – Town Square
DOCUMENTS TABLED: Nil

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

Summary:

This report is to formalise the process to acquire the land and buildings at 25 & 27 South Street, York.

Background:

The land and buildings have been listed for sale and there is an opportunity to acquire the land to add to Peace Park and make a formal square for future use. The building has been the subject of a structural engineering report and deemed to be satisfactory.

Consultation:

Commissioner

Statutory Environment:

The Local Government Act requires that any transaction of this nature must be listed in the Shires budget and if loan funds are required the process also needs to be stated in the Budget.

The 2015/16 Budget included both proposals and formal application for a loan needs to be made.

Policy Implications:

Not Applicable

Financial Implications:

The estimated impact will be one loan repayment plus accrued costs which will amount to \$71,989 for principal and interest during the 2015/16 financial year.

Strategic Implications:

The two major issues are the need to ensure that iconic heritage buildings in York are retained to ensure that tourism continues to flourish. Comment has been made that heritage buildings are best left in the hands of the private sector and this is not challenged, but in this case there has been very little interest shown by the private sector.

Voting Requirements:
Commissioner's Voting Support

Site Inspection:
Site Inspection Undertaken: Yes

- Commissioner
- Shire Staff
- Consultant Building Surveyor
- McDowall Affleck Structural Engineers

Triple bottom Line Assessment:

Economic Implications:

The proposal is seen to be a foundation upon which the economy of York can be stimulated by the development of the Town Square concept and the retention of an iconic York building.

Social Implications:

The acquisition of the land and buildings will enable future generations the opportunity of developing a central town square for entertainment and the building may be used for community purposes.

Environmental Implications:

Nil

Officer Comment:

The contract documentation has an incorrect date inserted and this needs to be amended. The Commissioner now needs to formalise the process.

ASB Comment

Not Applicable

**RESOLUTION
010715**

"That the Commissioner:

- 1. Confirms the delegation of power given to the Acting Chief Executive Officer on 18 June, 2015 to negotiate for an offer to be made to purchase the properties at 25 & 27 South Street, York.***
- 2. Authorises the purchase of 25 & 27 South Street, York (C/T 2742/29 and C/T 2742/30) for the consideration of \$625,000 payable by a deposit of \$5,000 within 18 days of acceptance of the Shires offer and the balance at settlement, subject to finance and settlement to be within 30 days from financial approval."***

The Commissioner Declared the Motion Carried

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS

Disclosure of Interest: *Graeme Simpson, Acting CEO – Financial Interest*
Nature of Interest – Loss of Earnings

9.2.2 Application for Leave Without Pay – Acting Chief Executive Officer

FILE NO:
COUNCIL DATE: 2 July 2015
REPORT DATE: 30 June 2015
LOCATION/ADDRESS: N/A
APPLICANT: G K Simpson, A/CEO
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: G K Simpson, A/CEO –
Negative Financial Interest
APPENDICES: Nil
DOCUMENTS TABLED: Nil

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

Summary:

The Acting Chief Executive Officer requests approval to have a week of Leave Without Pay during the week 28 September, 2015 to 2nd October, 2015.

Background:

A commitment was made to my family prior to accepting the York appointment that I would take them to Singapore for a family celebration.

It is proposed to have the Manager of Works & Services, Mr Allan Rourke, to take the position of Acting Chief Executive Officer during this period.

Consultation:

Deputy Chief Executive Officer
Former Relief Acting Chief Executive Officer – Mr Peter Bradbrook

Statutory Environment:

The Local Government Act requires that the Shire must have a Chief Executive Officer at all times (Section 5.36 (1)).

Policy Implications:

The Shire does not have a Policy Statement in place to cover small periods of leave to be taken by the Chief Executive Officer.

Financial Implications:

There is a net saving of salaries for leave without pay less the amount paid at a higher duties payment made to the replacement Acting Chief Executive Officer.

Strategic Implications:

Meeting dates have currently set with the fourth Monday of each month to be Council Meeting day, however in September 2015 this is a public holiday. It is suggested that the meeting schedule be amended to hold the September Council meeting on 21 September, 2015 being the regular four weeks after the August meeting.

Voting Requirements:
Commissioner's Voting Support

Site Inspection:
Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:
Economic Implications:
Nil

Social Implications:
The proposed change of date for the September meeting will need to be advertised.

Environmental Implications:
Nil

Officer Comment:
The proposed change of date for the September meeting will assist by leaving the week free of formal meetings.

ASB Comment
Not Applicable

RESOLUTION
020715

"That the Commissioner:

- 1. Alter the dates for the September Shire meetings to hold the Council Meeting on 21 September, 2015 and the Agenda Settlement Briefing on the 14 September, 2015.***
- 2. Grant leave without pay to Graeme Simpson, Acting Chief Executive Officer, for the period 28 September, 2015 to 2 October, 2015.***
- 3. Appoint Mr Allan Rourke, Manager of Works & Services to hold the office of Acting Chief Executive Officer during the nominated period."***

The Commissioner Declared the Motion Carried

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.3 Application for a Loan

FILE NO:
COUNCIL DATE: 2 July 2015
REPORT DATE: 30 June 2015
LOCATION/ADDRESS: 25 & 27 South Street, York
APPLICANT: Shire of York
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

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

Summary:

The arrangements for purchase of the two lots of land at 25 & 27 South Street, York have been completed and the proposal to raise a loan of \$625,000 has been listed in the 2015/16 Shire Budget.

Background:

The purchase of the land has been completed under contract.

Consultation:

McDowell Affleck Consulting Engineers
Commissioner
Shire Staff
WA Treasury Corporation Staff

Statutory Environment:

Local Government Act
Local Government (Financial Management) Regulations Reg 29

Policy Implications:

Nil

Financial Implications:

The impact on the 2015/16 Budget will be for one loan repayment and accrued principal and interest costs.

Strategic Implications:

The raising of the loan spreads the financed burden over 10 years and letting of the premises will assist in offsetting some of the costs.

Voting Requirements:

Commissioner's Voting Support

Site Inspection:

Site Inspection Undertaken:

Triple bottom Line Assessment:

Economic Implications:

Social Implications:

Nil

Environmental Implications:

Nil

Officer Comment:

The loan information has been clearly identified in the budget papers and notes.

ASB Comment

Not Applicable

RESOLUTION

030715

“That the Commissioner:

Make formal application to raise a loan of \$625,000 from WA Treasury Corporation for the purpose of acquiring Lots 800 & 801 in South Street, York.”

The Commissioner Declared the Motion Carried

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.4 MOU between York Racing Inc and the Shire of York

FILE NO: CCP.10
COUNCIL DATE: 2 July 2015
REPORT DATE: 1 July 2015
LOCATION/ADDRESS:
APPLICANT: Shire of York
SENIOR OFFICER: G K Simpson, A/CEO
REPORTING OFFICER: G K Simpson, A/CEO
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: MOU York Racing Inc – Shire of York
REPORT APPROVED BY THE A/CEO: *Graeme Simpson*

Summary:

The Memorandum of Understanding is the final document in the process for the requirements of Resolution 130615 to be completed. All documents in respect to the transfer of the ownership of the land into joint names of York Racing (Inc) and Shire of York have been completed.

Background:

The process has been going on for many years and on 29 November 2010 Council resolved to commence the process.

Consultation:

Commissioner
Acting Chief Executive Officer
York Racing Inc delegates

Statutory Environment:

Shire decisions of 29 November 2010 and 22 June 2015.

Policy Implications:

Clarifies responsibilities of both parties.

Financial Implications:

Clarifies financial responsibilities of the member parties.

Strategic Implications:

Nil

Voting Requirements:

Commissioner's Voting Support

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:

Not Applicable

Social Implications:

Not Applicable

Environmental Implications:

Not Applicable

Officer Comment:

The agreement sets out the responsibilities of York Racing (Inc) and the Shire.

ASB Comment

Not Applicable

RESOLUTION

040715

“That the Commissioner:

Receive the report and adopt its contents.”

The Commissioner Declared the Motion Carried

9.3 Works Reports

Nil

9.4 Financial Reports

Nil

9.5 Late Reports

Nil

9.6 Confidential Reports

9.6.1 – Staff Matter – Appointment of Manager Development Services

**RESOLUTION
050715**

“That the Commissioner:

Adopts the appointment of Gordon Tester to the position of Manager Development Services and requests the Acting Chief Executive Officer prepare a five year contract of employment incorporating the agreed Conditions of Employment”

The Commissioner Declared the Motion Carried

10. CLOSURE

The Commissioner thanked everyone for their attendance and closed the meeting at 5.46pm.