



# SHIRE OF YORK

**MINUTES OF THE SPECIAL  
MEETING OF THE COUNCIL  
HELD ON 25 SEPTEMBER, 2014  
COMMENCING AT 4.34PM  
IN THE COUNCIL CHAMBERS,  
YORK TOWN HALL, YORK**

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## SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL  
HELD ON THURSDAY, 25 SEPTEMBER 2014, COMMENCING AT  
4.34PM 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 4.34pm*

#### 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: N/A

Seconded: N/A

Carried: N/A

#### 1.4 Announcement of Visitors

*Nil*

#### 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 Pat Hooper; Cr Denese Smythe; Cr David Wallace; Cr Tony Boyle.*

### 2.2 Staff

*Michael Keeble, Chief Executive Officer; Gail Maziuk, Human Resources and Compliance 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 19 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

Chief Executive Officer left the room at 4.40pm.

Public Question Time Opened.

### **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**

**John Oliver**

**Question 1:**

Can questions be moved to later in the meeting?

**Response:**

David Morris from the Department of Local Government and Communities stated that a second question time is possible but not worthwhile.

**Question 2:**

What is the consultative process that Council is going to adopt? It should not be like last time.

**Response:**

Cr Reid responded that Best Practice is to be adopted.

**Question 3:**

What will be the period of notice?

**Response:**

Cr Reid stated it is to be 3 months.

**Gordon Marwick**

**Question 1:**

Why has another CEO resigned? What is the catalyst for the resignation? Do you believe that you are still “a united and cohesive Council?

**Response:**

Cr Reid: It is not related to the cohesiveness of the Council. However, it is not a cohesive Council.

**Question 2:**

Who will deal with the Fitzgerald Report?

**Response:**

Cr Reid: I have asked the CEO to get legal advice on behalf of Council. Insurers advised that Council is forbidden to take carriage of report. Cr Reid and CEO are to discuss this further.

**Question 3:**

Was the Fitzgerald Report a confidential report to Council?

**Response:**

Cr Reid: Yes.

**Question 4:**

Will the Council follow up on who leaked the report on or around the 21/08/2014?

**Response:**

Some investigations have been undertaken.

**Julian Krieg**

Mr Julian Krieg read the following letter to the meeting in its entirety:

Re: The alleged Transcript of the Fitzgerald Report available to the public into allegations of misconduct in Shire of York.

On the weekend of 20 & 21<sup>st</sup> September one of my neighbours asked me if I had read a transcript of what I believed to be 'the exact transcript' of the recently completed Fitzgerald report. Until this time I was unaware the report had been released into the public domain, and when I scanned through this written account of accusations I was appalled at the breadth and complexity of the accusations and the stress it must be causing the accused named individuals, as well as the depth of emotion felt by those making the accusations, and the level of their distress also.

My first question of the Council is:

Can you confirm that the information available to the public on the internet at <http://shireofyork6302.blogspot.com.au> is the transcript of the Fitzgerald enquiry?

If the answer to this question is yes -

It is my opinion that now that these accusations which have existed as 'rumour and innuendo' for a considerable time in our community have now been published in a written form, which is available to everyone in a very public domain, that the council has no option other than to take action to ensure these concerns are heard and addressed. If action is not initiated on this matter I believe the current council will, by their lack of action be implicated and found to also be liable if the accusations are found to be valid in the future.

My second question is therefore:

What is council doing to ensure that the accused have an appropriate legal forum to respond to the accusations made, as is suggested by Fitzgerald on numerous times in the report. And conversely this also gives opportunity for the accusers to formally validate their accusations.

For me, as a ratepayer and a concerned citizen, it is of fundamental importance to have open and accountable processes in all levels of government that follow the clear principles of ethical practice as laid down in all aspects of good governance policies and procedures. This must include addressing appropriately and with concern for natural justice any complaints and accusations made against councillors and council employees. It is my opinion that this matter must be addressed as a matter of urgency.

**Question 1:**

The report is in the public domain and Council must move quickly to resolve the issues, whether the accusations are upheld or denied. How can the insurer hold Council back from dealing with the report? How quickly can we get information as to whether the insurers are able to stop Council acting? This must be sorted out before the new CEO is appointed.

**Response:**

Cr Reid: The CEO has taken some months to obtain legal advice. I have little support from the Department of Local Government and fellow councillors.

Public Question Time Closed at 4.57pm

**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. REPORTS**

*Nil*

**10. MATTERS FOR RESOLUTION**

10. MATTERS FOR RESOLUTION  
10.1 ADMINISTRATION  
10.1.1 Resignation of Chief Executive Officer

FILE NO: P1  
COUNCIL DATE: 25<sup>th</sup> September 2014  
REPORT DATE: 25<sup>th</sup> September 2014  
LOCATION/ADDRESS: Shire of York, 1 Joaquina St, York WA  
APPLICANT: SHIRE PRESIDENT (Matthew Reid)  
AUTHOR: MICHAEL KEEBLE  
DISCLOSURE OF INTEREST: Nil  
APPENDICES: Appendix 1: Letter of Resignation  
DOCUMENTS TABLED: Nil  
REPORT APPROVED BY THE CEO: *Michael Keeble*

**OFFICER RECOMMENDATION**

*“That Council:*

- 1. Receive the letter of resignation letter from the Chief Executive Officer Michael Keeble.*
- 2. Accept the offer from the Chief Executive Officer Michael Keeble to continue in his position in terms of his contract until a permanent Chief Executive Officer is appointed and takes up the position.*
- 3. Accept the offer from the Chief Executive Officer Michael Keeble to conduct a full handover to the new Chief Executive Officer. Michael Keeble shall remain on the same terms and conditions during that handover period which shall not exceed two weeks, and shall be in a consultative position during that time.*
- 4. Consider the process for a replacement Chief Executive Officer.*

**AMENDMENT WAS MOVED:**

**Moved: Cr Hooper**

**Seconded: Cr Smythe**

*“That Council*

Authorises the President, Deputy and one other Councillor to negotiate with the Chief Executive Officer in relation to contractual arrangements going forward for a period of up to three (3) months. To replace item 2.

**CARRIED: 6/0**

**RESOLUTION**

**410914**

**Moved: Cr Hooper**

**Seconded: Cr Smythe**

*“That Council*

- 1. Receive the letter of resignation from the Chief Executive Officer Michael Keeble.*
- 2. Authorise the President, Deputy and one other Councillor to negotiate with the Chief Executive Officer in relation to contractual arrangements going forward for a period of up to three (3) months.*
- 3. Accept the offer from the Chief Executive Officer, Michael Keeble to conduct a full handover to the new Chief Executive Officer. Michael Keeble shall remain on the same terms and conditions during that handover period which shall not exceed two weeks, and shall be in a consultative position during that time.*
- 4. Consider the process for a replacement Chief Executive Officer.*

**CARRIED 6/0**



**Voting Requirements:**  
**Simple Majority Required:                    Yes**

**Summary:**

The Chief Executive Officer tendered his resignation to the Shire President on 23 September 2014 for consideration by Council. The letter is attached as an appendix to this item.

**Commentary:**

It is noted that the Chief Executive Officer has offered to remain in his position until a suitable replacement is found and has taken up the appointment. Consequently Council has time to consider the best way forward.

The usual process would be:

1. Consider recruitment organisations to undertake advertising and prepare a short list of candidates for Council to consider.
2. Consider the essential criteria required to fulfil the position
3. Determine the composition of an interview panel
4. Consider the involvement of the present Chief Executive Officer in the recruitment process
5. Determine the terms and conditions offered to candidates, including term of the contract ,salary housing and vehicle.
6. Determine the method of grading applicants
7. Determine any other matters which will arise

**Statutory Environment:**

The Local Government Act 1995

Part 1

Section 1.4 Terms Used

***absolute majority (extract) —***

- (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;

Part 5 Division 4

***Section 5.36 Local government employees (extract)***

(1) A local government is to employ —

(a) a person to be the CEO of the local government; and

(3) A person is not to be employed in the position of CEO unless the council —

(a) believes that the person is suitably qualified for the position; and

(b) is satisfied\* with the provisions of the proposed employment contract.

*\* Absolute majority required.*

(4) .....if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.

**Financial Implications:**

The budget has adequate provision for the employment of a Chief Executive Officer .

## Appendix 1.

Michael Keeble

September 23, 2014

The Shire President  
York Shire Council  
P.O.Box 22  
York WA 6302

Dear Matthew,

It is with regret that I must tender my resignation to you and the Council for the following reasons which are beyond both your and my control.

1. Constant abuse by certain ratepayers from which I am unable to either control nor shield my staff.
2. Abuse of me and my position from which Council is unable to either control or shield.
3. The legal position that I may be placed in by the future actions of certain people named in a report which is in the hands of our solicitors.
4. My disappointment that I have not fulfilled the administrative duties required of a Chief Executive Officer due to other duties placed on me by factors outside my control.

If it is the resolution of Council I shall stay on as Chief Executive Officer until a replacement is appointed and has taken up the position. I shall also conduct a full hand over to the new Chief Executive Officer on their arrival.

Please may I take this opportunity to thank the Council for their guidance and friendship, during my time at York.

Yours sincerely,

*Michael Keeble*

Michael Keeble

P.O.Box 430 Guildford WA 6935 E: [mkeeble@bigpond.com](mailto:mkeeble@bigpond.com) Mob 0418908884

## 11. CLOSURE

*Cr Reid closed the meeting at 5.11pm.*