

Shire of Esperance

SPECIAL COUNCIL

TUESDAY 15 JANUARY 2019

MINUTES

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ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

Council is committed to a code of conduct and all decisions are based on an honest assessment of the issue, ethical decision-making and personal integrity. Councillors and staff adhere to the statutory requirements to declare financial, proximity and impartiality interests and once declared follow the legislation as required.

ATTACHMENTS

Please be advised that in order to save printing and paper costs, all attachments referenced in this paper are available in the original Agenda document for this meeting.

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SHIRE OF ESPERANCE
MINUTES
OF THE SPECIAL COUNCIL MEETING
HELD IN COUNCIL CHAMBERS ON 15 JANUARY 2019.

1. OFFICIAL OPENING

The Shire President declared the meeting open at 5.00pm

The President welcomed Councillors, staff, guests and members of the public to the meeting.

2. ATTENDANCE

Members

Cr V Brown	President	Rural Ward
Cr N Bowman	Deputy President	Rural Ward
Cr J Parsons		Town Ward
Cr S McMullen		Town Ward
Cr S Payne		Town Ward
Cr L McIntyre		Town Ward
Cr R Padgurskis		Town Ward
Cr D Piercey, JP		Town Ward
Cr B Parker		Rural Ward

Shire Officers

Mr W M (Matthew) Scott	Chief Executive Officer
Mrs B O'Callaghan	Acting Director Corporate Resources
Mr T Sargent	Director External Services
Miss A McArthur	Administration Officer - Executive Service
Ms P Davies	Manager Executive Services
Miss S Fitzgerald	Corporate Reporting & Governance Officer

Members of the Public & Press

Mr R Sadding	Ms J O'Donnell
Ms L Chalmer	Ms E Dixon
Mr B Stevens	Mr A Hughes
Mrs H O'Brien	Mr M Biven
Mr S O'Brien	Mrs J Biven
Ms J Handley	Mr B Freeman
Mr G Gath	Mr K Norman
Mrs J Andre	Ms B Keitel
Mr J Andre	Mr R Grant
Ms K Everett	Ms D Fletcher
Mr D Eltringham	Ms F Varcoe
Ms P Nevin	Mr D Scott
Ms C Smith	Mrs S Scott
Mr M Andre	Mr K O'Dwyer
Mrs D Andre	Mr B Pearce
Mr L Western	Mr A Bright
Mr M Cawley	Mr K Knieukerke
Ms J Smith	Mrs B Simmonds

Mr B Simmonds
Mr K Beale
Mrs K Beale
Mrs D Johnson
Mrs J Dixon
Mr C Siemer
Dr N Chalmers
Mr M Bartle
Ms T Ibrahim
Ms L Penketh

Mr D Miller
Mr D Johnson
Ms F Freeman
Mr G Johnson (entered at 5.11pm)
Ms T Revell (entered at 5.04pm)
Ms K Milligan (entered at 5.05pm)
Mr L Graham (entered at 5.36pm)
Miss J Burton Esperance Express
Mr C de Garis ABC Goldfields/Esperance
(entered at 5.05pm)

3. APOLOGIES & NOTIFICATION OF GRANTED LEAVE OF ABSENCE

Mr Walker	Director Asset Management
Mr Burge	Director Corporate Services

4. DECLARATIONS OF INTERESTS:

4.1 Declarations of Financial Interests – Local Government Act Section 5.60a

Mr Scott declared a financial interest in item 6.1, Motions 1 & 3 as the motions effect his employment contract.

Mr Sargent declared a financial interest in item 6.1, Motion 3 as he is a member of Senior staff.

Mrs O'Callaghan declared a financial interest in item 6.1, Motion 3 as she is acting as a Senior staff member.

4.2 Declarations of Proximity Interests – Local Government Act Section 5.60b

4.3 Declarations of Impartiality Interests – Admin Regulations Section 34c

Ms Revell entered the Chamber at 5.04pm.

Ms Milligan and Mr de Garis entered the Chamber at 5.05pm

5. PUBLIC QUESTION TIME

1. Mr K Knieukerke

Mr Knieukerke noted that the CEO was the author and the authoriser of the Item the 6.1 in the Agenda. Mr Knieukerke questioned the appropriateness of this seeing as he has personal interests in the two of the motions.

Mr Scott responded that part of his functions as the Chief Executive Officer is to advise Council and prepare Agendas to Council. He stated that he did declare his financial interest and preparing the Agenda and writing the item was meeting his statutory functions as a CEO.

2. Mr M Cawley

Mr Cawley referred to the presence of Spongolite on the Proposed Landfill Site at Lot 12 Kirwan Road. He explained that Spongolite channels water very easily and he is yet to see this mentioned anywhere in Councils Reports. He asked how the reports for the Proposed Landfill Site are going.

Cr Brown responded that the process is going very slowly, and staff are working through the four dot points of the resolution moved regarding the Proposed Landfill Site. Cr Brown mentioned that there is a huge amount of documentation to work through.

Mr Sargent added that Mr Cawley is welcome to get into touch with Shire Officers for more information and the Shire website also has lots of information and documentation about the Proposed Landfill Site. Mr Sargent explained that the Spongolite has been recognised and addressed in the reports and has been considered by the Environmental Protection Authority.

Mr Johnson entered the Chamber at 5.11pm.

3. Ms J O'Donnell

Ms O'Donnell questioned if Council has taken the motions carried at the Annual Electors Meeting seriously.

Cr Brown responded that Council is taking the motions extremely seriously and have put a lot of time and effort into working on a solution for them.

4. Mr M Biven

Mr Biven asked how the costings for the Scoping Document were progressing, given the timeline outlined in the document and the availability of specialised consultants at this time of year. Additionally he asked if the amount of works outlined in the Scoping Document was expected by the Council.

Cr Brown explained that she can't comment on the availability of consultants but her initial thoughts when she saw the complete Scoping Document for the first time was to question the timeline and its achievability.

Mr Sargent responded that he is meeting with the EPA tomorrow to discuss the ambiguity of the document and clarify what the Shire needs to do. Once this has been clarified a scope of works can be developed to address the Scoping Document. Mr Sargent explained that the estimated costs can be sought once a scope of works is complete.

Mr Biven questioned if the scoping document was what Mr Scott expected.

Mr Scott responded that he has read the document and he believes it's clear that the EPA wants to make sure every stone is turned which is what the Shire wants also. The Shire is yet to have any view of the cost involved.

5. Ms T Revell

Ms Revell questioned if Council is going to be working with the community of the motions.

Cr Brown responded that as they move through the motions, Ms Revell might get an idea of which motions Council and the Community can work together.

6. Mrs K Milligan

Ms Milligan referred to Motion 6 carried at the Annual Electors Meeting and wished to clarify she thought through over a long period of time. She explained that negative blaming within the Community is never going to accomplish anything. Mrs Milligan explained that she is not sure if the fracture in the Community is between parts of the Community or the Community and Council, she questioned if the Community Perception Survey be able to identify this.

Cr Brown responded that biggest challenge with the Community Perception Survey is encouraging the community to complete the survey. She explained that last survey only 1100 out of 14k completed the survey. Cr Brown explained that she noticed those who feel aggrieved usually complete these sorts of surveys and those who are happy don't feel the need to.

6. PURPOSE OF MEETING

Mr Scott declared his financial interest and left the Chamber at 5.25pm.

6.1 Annual Electors Meeting - Motions Carried - Motion 1

Moved: Cr Brown

Seconded: Cr Bowman

S0119-001

Officer Recommendation

That Council note Motion 1 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconder of Motion of Council's resolution.

Council Resolution

That Council

- 1. Rejects Motion 1 from the Annual Electors Meeting of Electors 2018, based on the outcome of the March 2018 CEO Performance Review, and since that time there being no evidence of misconduct or breaches of the CEOs statutory or contractual obligations, there is no valid reason to terminate his contract; and**
- 2. Advises the mover and seconder that Council has a robust annual statutory performance review process for the CEO, and all relevant matters relating to the performance of the CEO will be considered at that annual review to be conducted before April 2019.**

**CARRIED
F9 - A0**

Reason: Council saw no valid reason to dismiss the Chief Executive Officer.

Mr Scott returned to the Chamber at 5.36pm.

Mr Graham entered the Chamber at 5.36pm.

6.1 Annual Electors Meeting - Motions Carried - Motion 2

Moved: Cr Bowman

Seconded: Cr McIntyre

S0119-002

Officer Recommendation

That Council note Motion 2 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconder of Motion of Council's resolution.

Council Resolution

That Council

- 1. Review the long term financial plan prior to budget setting and consider the impact that keeping the 2019/2020 rates at CPI would have on this and future year's budgets, assets and service delivery.**
- 2. Seek information from City of Bayswater regarding their Participatory Budget program to determine if it would be a viable method of involving the community in future budget process, and**
- 3. Run an information session for the community on the Shire's Long Term Financial Plan prior to its adoption at Council.**

**CARRIED
F9 - A0**

Reason: Council wanted investigate the impacts of keeping the rates at CPI and the possibility of involving the community in budget process in the future.

Mr Scott, Mr Sargent and Mrs O'Callaghan declared their financial interests and left the Chamber at 5.44pm.

6.1 Annual Electors Meeting - Motions Carried - Motion 3

Moved: Cr McIntyre
Seconded: Cr McMullen

S0119-003

Officer Recommendation

That Council note Motion 3 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconded of Motion of Council's resolution.

Council Resolution

That Council reject Motion 3 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconded of the Motion of Council's resolution.

**CARRIED
F9 - A0**

Reason: Council do not have authority to amend Senior Staff members salary.

Mr Scott, Mr Sargent and Mrs O'Callaghan returned to the Chamber at 5.46pm

6.1 Annual Electors Meeting - Motions Carried - Motion 4

Officer Recommendation

That Council note Motion 4 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconded of Motion of Council's resolution.

MOTION

Moved: Cr Parsons
Seconded: Cr Parker

That Council:

1. Re-confirms resolution S0218-026, specifically re-committing to defer any further decision regarding the proposed landfill facility on Lot 12 Kirwan Road until Council has had an opportunity to consider all the elements listed in resolution S0218-026; and
2. Request the CEO, if practicable, to provide initial cost estimates to implement the currently approved Scoping Document for Council's consideration by or before the 28 February 2019.

AMENDMENT

Moved: Cr Payne
Seconded: Cr Piercey

That Council:

1. Re-confirms resolution S0218-026 (Special Council Meeting February 2018) , specifically re-committing to defer any further decision regarding the proposed landfill facility on Lot 12 Kirwan Road until Council has had an opportunity to consider all the elements listed in resolution S0218-026; and
2. Request the CEO, if practicable, to provide detailed costing to complete the Environmental Review Process.

MOTION

Moved: Cr Bowman
Seconded: Cr McMullen

That the question be now put, as per Section 12 (12.4) of the Standing Orders.

**CARRIED
F9 - A0**

Council voted on the amendment and it was...

**AMENDMENT LOST
F2 – A7**

*(Against Cr Brown, Cr Bowman, Cr Padgurskis,
Cr McMullen, Cr Parsons, Cr Parker & Cr McIntyre)*

The Presiding Member put the original motion and it was...

S0119-004

Council Resolution

That Council:

- 1. Re-confirms resolution S0218-026, specifically re-committing to defer any further decision regarding the proposed landfill facility on Lot 12 Kirwan Road until Council has had an opportunity to consider all the elements listed in resolution S0218-026; and**
- 2. Request the CEO, if practicable, to provide initial cost estimates to implement the currently approved Scoping Document for Council's consideration by or before the 28 February 2019.**

**CARRIED
F9 - A0**

Reason: Council wanted to follow through with the Special Council Meeting Resolution S0218-026 and have an initial cost estimates to implement the Scoping Document before considering further decisions.

6.1 Annual Electors Meeting - Motions Carried - Motion 5

Moved: Cr McIntyre
Seconded: Cr McMullen

S0119-005

Officer Recommendation

That Council note Motion 5 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconder of Motion of Council's resolution.

Council Resolution

That Council reject Motion 5 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconder of the Motion of Council's resolution.

**CARRIED
F9 - A0**

Reason: Council do not have authority to approve this motion under the *Local Government Act 1995*.

SUSPENSION OF STANDING ORDERS

Moved: Cr McIntyre
Seconded: Cr Piercey

S0119-006

That Section Nine (9.5) of the Standing Orders be suspended to allow for discussion of item 6.1, Motion 6.

**CARRIED
F6 – A3**

(Against Cr Padgurskis, Cr McMullen & Cr Parsons)

RESUMPTION OF STANDING ORDERS

Moved: Cr McIntyre
Seconded: Cr Piercey

S0119-007

That Section Nine (9.5) of the Standing Orders be resumed.

**CARRIED
F9 - A0**

6.1 Annual Electors Meeting - Motions Carried - Motion 6

Moved: Cr Payne
Seconded: Cr McIntyre

S0119-008

Officer Recommendation

That Council note Motion 6 from the Annual Meeting of Electors (December 2018) and instruct the CEO to advise the Mover and Seconder of Motion of Council's resolution.

Council Resolution

That Council, after receiving data from the Community Perception Survey investigate engaging an independent facilitator to work with Council with the aim of improving its relationship with the community.

**CARRIED
F8 – A1**

(Against Cr Parker)

Reason: Council wanted to investigate the possibility of an independent facilitator after the Community Perception Survey has been completed.

7. CLOSURE

The President declared the meeting closed at 6.32pm.

These Minutes were confirmed at a meeting held on _____

Signed _____

Presiding Member at the meeting at which the Minutes were confirmed.

Dated _____