

**Minutes of the Meeting
of the Glenorchy City Council
held at the Council Chambers
on Wednesday, 13 April 2016 at 3.00 p.m.**



Present: Aldermen K. Johnston (Mayor), J. Branch-Allen, J. Dunsby, S. King, C. Lucas, H. Nielsen, D. Pearce, S.E. Slade and M. Stevenson.

In attendance: Mr. P. Brooks (General Manager), Ms. S. Iskandarli (Director Corporate Governance and General Counsel), Mr. E. Reale (Director City Services and Infrastructure), Mr. T. McMullen (Acting Director Community, Economic Development and Business), Ms. K. Hudson (Manager Legal and Property), Mr. S. Scott (Manager Governance and Risk), Ms. D. Berry (Manager People and Safety), Mr. C. French (Manager Business and Finance), Mr. D. Ronaldson (Manager Community and Customer Service), Mr. P. Garnsey (Manager Environment and Development), Mr. R. Grierson (Manager Infrastructure, Engineering and Design), Mr. S. Mohamed (Manager Waste Services), Mr. R. Frankcombe (Manager Works), Mr. A. Woodward (Coordinator Environmental Health), Mr. C. Grace (Asset Management Coordinator), Ms. E. McGoldrick (Coordinator City Strategy and Economic Development), Ms. L. Gray (Development Compliance Officer), Mr. E. Brown (Waste Services Coordinator), Mr. M. Glover (Engineering Projects Coordinator) and Mrs. J. King (Mayoral and Executive Support Officer).

Ms Lynn Mason, member of the Board of Inquiry

Mr Barry Easter, member of the Board of Inquiry

Mr David Tilley, staff member of the Department of Premier and Cabinet

Workshops held since **Date:** **Monday, 21 March 2016**

last Council Meeting

Purpose: To discuss:

- 2016 Draft Capital Budget and Asset Management Plans Update

The meeting was opened with a prayer by Pastor Peter Clark.

1. APOLOGIES

Alderman H. Quick.

2. CONFIRMATION OF MINUTES

Resolution:

PEARCE/LUCAS

That the minutes of the Council Meeting held on Tuesday, 15 March 2016 be confirmed.

Amendment - Item 3:

Mr. Martin Watkins (Convener Greater Claremont Precinct).

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Slade, Nielsen, Lucas, King and Stevenson.

AGAINST: Aldermen Dunsby and Johnston.

The motion was CARRIED.

3. ANNOUNCEMENTS BY THE CHAIR

The Mayor announced that Council had received a certificate of appreciation for its contribution to the Tasmanian Headstone Project.

4. PECUNIARY INTEREST NOTIFICATION

The Chairperson asked if any Aldermen had or were likely to have a pecuniary interest in any items on the Agenda.

No declarations of pecuniary interest were declared.

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

None.

6. PUBLIC QUESTION TIME (15 MINUTES)

Mr. George Burrows – Granton

Can the Mayor elaborate on the meeting she attended with Infrastructure Tasmania, Department of State Growth regarding the Bridgewater Bridge project?

The Mayor confirmed that she and the General Manager attended a meeting with Infrastructure Tasmania, Department of State Growth in relation to the Bridgewater Bridge Project to discuss the preliminary design of the new proposal and there will be significant consultation about this proposal.

7. PETITIONS/DEPUTATIONS

The General Manager advised that he received a petition from Athelda Panton with 8 signatories re excess noise in Duncan Street, Montrose and that staff were already actioning the issues raised in the petition.

The General Manager tabled the petition under section 58(2) of the *Local Government Act 1993* (Tas).

DUNSBY/LUCAS

That Council accept the petition.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

COMMUNITY

8. ANNOUNCEMENTS BY THE MAYOR

File Reference: Mayoral Announcements

Reporting Brief:

To receive the announcement of events by the Mayor.

Resolution:

BRANCH-ALLEN/PEARCE

That Council:

1. RECEIVES the announcements about the activities of the Mayor's office for the period 9 March 2016 to 7 April 2016.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

ECONOMIC

9. POP-UP SHOP INCUBATOR PROPOSAL

File Reference: Proposals - Economic Development

Reporting Brief:

To report on a motion Alderman Jenny Branch-Allen submitted to Council on 3 September 2014.

Resolution:

BRANCH-ALLEN/PEARCE

That Council:

ACKNOWLEDGES that given current resource levels, delivery of a Pop-Up incubation project from within Council operations would be of limited efficacy and is therefore not prudent to proceed with at this time.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

ENVIRONMENT

10. SMOKING BAN ALONG THE INTERCITY SHARED PATHWAY

File Reference: Smoke Free Public Places

Reporting Brief:

A Notice of Motion by Alderman Stevenson was submitted for the Ordinary Meeting of Council Agenda for 25 January 2016. The Notice of Motion is detailed below:

1. Council investigates its jurisdiction to ban smoking along the intercity cycle way,
2. Returns a report to Council advising if it does have jurisdiction to do so; and

3. If it is possible, provide an appropriate schedule for implementing such a ban.

Present the proposed model to reduce the risks.

Resolution:

STEVENSON/LUCAS

That Council:

1. DOES pursue designating the Intercity Shared Pathway a smoke-free area without the need to employ two tobacco control officers.

STEVENSON/PEARCE

That this Item lay on the table for further information and consideration of this item at a future Council Workshop.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

GOVERNANCE

11. CODE FOR TENDERS AND CONTRACTS

File Reference: Code for Tenders and Contracts

Reporting Brief:

This report is to seek Council's adoption of the Code for Tenders and Contracts.

Resolution:

PEARCE/BRANCH-ALLEN

That Council:

1. ADOPTS the 'Code for Tenders and Contracts, as attached, to comply with Section 333B of the *Local Government Act 1993* and Regulation 28 of the *Local Government (General) Regulations 2015*.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

12. CORPORATE PERFORMANCE INDICATORS - FEBRUARY 2016

File Reference: Traffic Lights

Reporting Brief:

To present the Corporate Performance Indicators as at the end of February 2016 for Aldermen's information.

Resolution:

BRANCH-ALLEN/PEARCE

That Council:

1. ACCEPTS the information provided by the Corporate Performance Indicators for February 2016.

Alderman Stevenson left the meeting at 3.56 p.m.

Alderman Stevenson returned to the meeting at 3.57 p.m.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

13. COUNCIL POLICY

File Reference: Council Policies

Reporting Brief:

This report is to seek Council's adoption of a revised Council policy ('Planning Appeals and Enforcement').

Resolution:

BRANCH-ALLEN/KING

That Council:

1. ADOPTS the 'Planning Appeals and Enforcement' policy, as attached, to provide principles to ensure that when acting as the Glenorchy Planning Authority, Council's procedures for dealing with appeals and enforcement issues are fair, consistent and in the public interest.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

14. ANNUAL PLAN PROGRESS REPORT AS AT 31 DECEMBER 2015

File Reference: Quarterly Report - Annual Plan Progress

Reporting Brief:

To provide Council with the Annual Plan Progress Report as at 31 December 2015.

Resolution:

SLADE/KING

That Council:

RECEIVES and notes the Annual Plan Progress Report as at 31 December 2015.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

15. SOUTHERN TASMANIAN COUNCILS AUTHORITY - QUARTERLY REPORT TO MEMBERS - DECEMBER 2015

File Reference: STCA

Reporting Brief:

To provide Council with the Southern Tasmanian Councils Authority (STCA) Quarterly Report to Members – December 2015.

Resolution:

BRANCH-ALLEN/PEARCE

That Council:

RECEIVES the Southern Tasmanian Councils Authority – Quarterly Report to Members – December 2015, that has been provided for the part of the Council meeting that is open to the public.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

16. ACTIONS LIST - UPDATE REPORT

File Reference: Actions Register - Council Meetings

Reporting Brief:

Actions List updated following 15 March 2016 Council meeting.

Resolution:

SLADE/DUNSBY

That Council

1. NOTES the Actions Register, as updated following the 15 March 2016 Council meeting.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

17. NOTICES OF MOTIONS – QUESTIONS ON NOTICE / WITHOUT NOTICE

Alderman Slade asked a question without notice.

Can the Mayor explain why she is holding six (6) sets of Council's confirmed Minutes and not signing them? Under Regulation 32 it is the role of the General Manager to ensure that the confirmed Minutes of the Council Meetings are in Council's records and are available to the Aldermen.

The Mayor advised that the copies of the confirmed Minutes of the Council Meetings are kept on Docs on Tap and are available to the Aldermen.

The Mayor advised that she has not signed the 14 December 2015 Special Council Meeting Minutes as she has concerns about the accuracy of those minutes. She asked for legal advice from the General Manager and the Director Corporate Governance & General Counsel six (6) months ago and this advice is not forthcoming.

The General Manager and the Director Corporate Governance & General Counsel advised that the Mayor's comment was incorrect as the first time the Mayor had made this request was on 4 April 2016 in a meeting with the Mayor and that legal advice was given to her at that meeting.

Alderman Pearce asked a question whether the unsigned Minutes of the Council Meetings create any liability for any Alderman from the insurance point of view.

The Director Corporate Governance & General Counsel advised that she is unable to advise the Council about the insurance matter but unsigned Minutes do not invalidate the Council decision as the Council has confirmed the Minutes of those six (6) Council Meetings.

The General Manager advised that it can be a risk to Council as the Auditors request the signed copies of the Council Minutes.

17.1. NOTICE OF MOTION - ALDERMAN J. BRANCH-ALLEN

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman Jenny Branch-Allen submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

BRANCH-ALLEN/PEARCE

That Council:

AGREES to hold a community forum prior to the adoption of the 2016/17 budget to outline the upcoming budget considerations and likely scenarios for rate setting for 2016-17 based on current information that will inform the Council when making its decisions in the Council meeting on the 6 June 2016.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

17.2. QUESTION ON NOTICE 1 - ALDERMAN M. STEVENSON

File Reference: Question on Notice

Question on Notice:

To consider a Question on Notice by Alderman Matt Stevenson submitted in accordance with the requirements of Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015*.

Question on Notice:

Documents filed in the Supreme Court as annexures to the affidavit of Alderman Branch-Allen include emails from the Director Corporate Governance & General Counsel and the General Manager to the Board of Inquiry. Those particular emails forwarded to Alderman Branch-Allen and Alderman Slade. In relation to those emails could the General Manager:

- Explain the purpose of the emails to the Board of Inquiry?
- Explain if the emails to the Board of Inquiry were sent on his instruction and/or on the advice of the Director Corporate Governance & General Counsel?
- Advise Council why these emails were only provided to two aldermen, namely Alderman Branch-Allen and Alderman Slade?

Answer:

The answer to this question may be provided after the Supreme Court case has concluded. The case is scheduled for 11th April 2016. Aldermen need to be aware that the matter is being heard before Chief Justice Blow it is sub-judice, and it is considered inappropriate to answer this question as the matter is before the Court.

17.3. QUESTION ON NOTICE 2 - ALDERMAN M. STEVENSON

File Reference: Question on Notice

Question on Notice:

To consider a Question on Notice by Alderman Matt Stevenson submitted in accordance with the requirements of Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015*.

Question on Notice:

In separate emails from the Director Corporate Governance & General Counsel and the General Manager (29 March 2016) to the Mayor, both the DCG&GC and the GM suggested that the Mayor had unlawfully disclosed confidential documents to the Board of Inquiry.

Specifically, in the GM's email, he stated that he was "extremely concerned with evidence presented by Barristers in the Supreme Court about your action in sending Council's confidential Agenda and draft Minutes of the 15th March 2016 Council Meeting to DPAC staff without Council's advice, decision or knowledge, not with my knowledge".

Could the General Manager please detail what he is alleging the Mayor has done?

Answer:

The Mayor, without Council's authority or the authority of the General Manager, who is responsible for the Agenda, sent the following documents to DPAC staff member David Tilley:

- the Agenda including the confidential sections of the agenda;
- the attachments to the agenda including the confidential attachments to the Agenda;
- the draft Minutes of 15 March 2016 without other Aldermen seeing or formally considering them.

The Mayor in her email to Mr. Tilley asked him to pass those documents to the BOI.

It must be noted that Mr. Tilley is not a member of the BOI and he is not bound by the confidentiality principles. Allowing Mr. Tilley to be privy to Council's confidential Agenda, Reports and attached documents before the Council Meeting of 15 March 2016, and to be privy to the draft Minutes of 15 March 2016 before the Council seeing and considering them, is inappropriate and unacceptable actions by the Mayor.

17.4. QUESTION ON NOTICE 3 - ALDERMAN M. STEVENSON

File Reference: Question on Notice

Question on Notice:

To consider a Question on Notice by Alderman Matt Stevenson submitted in accordance with the requirements of Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015*.

Question on Notice:

Could the General Manager please articulate his policy and/or procedure for responding to and circulating request for information and/or assistance received from aldermen?

Answer:

The process to respond to Aldermen's requests for information or advice is as follows:

1. When the General Manager receives the request for information or advice he sends that request to the relevant Director or Directors;
2. The Director or Directors request their relevant departments to action it;
3. Once the request is actioned a response letter or email is drafted for the General Manager's consideration; and
4. The General Manager forwards that actioned response email or letter to the Alderman who requested either advice or information or directly to the person who requested it, with a copy to the Alderman and /or Aldermen.

17.5. QUESTION ON NOTICE 1 - ALDERMAN K. JOHNSTON

File Reference: Question on Notice

Question on Notice:

To consider a Question on Notice by Alderman Kristie Johnston submitted in accordance with the requirements of Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015*.

Question on Notice:

With regards to the current Supreme Court action taken by Alderman Branch-Allen:

- How many claims for legal expenses have been made against the director's liability insurance?
- How many interests have been logged with the insurer?
- Will any of the claimed legal expenses relating to the court action be covered by the insurer?
- What will be the impact of any claims on the premiums payable by Council for the directors liability insurance?
- Has the Director Corporate Governance & General Counsel advised the insurer that she may be a potential co-applicant and/or co-respondent and is a named as an "interested party" in the current matter before the Supreme Court?

Answer:

As the Mayor stated in her email of 23 March 2016 the emails from other Aldermen are also private and confidential.

To date, we have no claims for legal expenses have been logged with the insurer. Council are not in a position to speculate as to whether any of the claimed legal expenses relating to the court action will be covered by the insurer nor will Council speculate as to what impact any claims on the premiums paid by Council might be. It is a private and confidential matter between the claimant and the insurer as to whom may or may not be claimants or potential claimants under the policy in question.

17.6. QUESTION ON NOTICE 2 - ALDERMAN K. JOHNSTON

File Reference:

Question on Notice

Question on Notice:

To consider a Question on Notice by Alderman Kristie Johnston submitted in accordance with the requirements of Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015*.

Question on Notice:

In The Mercury on Thursday 24 March 2016 it was reported that "A council spokesperson said each aldermen was meeting their own legal expenses in the case".

- Who was the Council spokesperson on this occasion referred to in the article and under what or whose authority did that person act as the spokesperson for Council?
- Under the Local Government Act 1993 who is the spokesperson for Council?
- Was the Mayor consulted or advised at all in relation to this media statement?

Answer:

This question has already been answered a number of times and has been debated a number of times at Council Meetings.

Alderman Lucas left the meeting at 5.27 p.m.

Alderman Lucas returned to the meeting at 5.28 p.m.

17.7. QUESTION ON NOTICE 5 - ALDERMAN K. JOHNSTON

File Reference: Question on Notice

Question on Notice:

To consider a Question on Notice by Alderman Kristie Johnston submitted in accordance with the requirements of Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015*.

Question on Notice:

Recent correspondence from LGAT detailing Mr Philip Zeeman's advice in relation to s22 of the Local Government Act suggests that Council does not have any authority to delegate to any individual aldermen (including the Mayor). Could the General Manager please advise under what authority do individual aldermen then represent the Council on the following external committees/bodies:

- a. LGAT
- b. STCA
- c. TasWater
- d. SWSA
- e. Wellington Park Trust
- f. West Moonah Community House
- g. Goodwood Community House
- h. Bucaan Community House
- i. Cycling South

- j. HoGlen
- k. And any other external committee or authority/body that may have council representation.

Answer:

Mr. Phillip Zeeman was engaged by LGAT and provided advice to LGAT concerning issues raised in the GMC matter; accordingly this question should be put to LGAT not to Council.

Resolution:

SLADE/PEARCE

That the meeting be closed to the public to allow discussion of matters that are described in Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Johnston, Nielsen, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

Alderman Stevenson left the meeting at 5.34 p.m.

Alderman Dunsby left the meeting at 5.34 p.m.

Alderman Lucas left the meeting at 5.34 p.m.

Alderman Stevenson returned to the meeting at 5.35 p.m.

Alderman Dunsby returned to the meeting at 5.35 p.m.

While the members of the public were leaving the Council Chambers Room so Council could start the closed session of its Meeting an incident occurred in Council Chambers involving Alderman Lucas and a member of the public, Mr Phil Butler.

At 5. 35p.m. the Mayor adjourned the Council Meeting under Regulation 13(1)(b) for 10 minutes. As required under Regulation 13(6) the reason for the adjournment was to identify what happened and ensure well being and safety of all Aldermen, Council staff and members of the public before Council resumed its Meeting which was closed to members of the public.

The Council Meeting resumed at 5.49 p.m.

CLOSED TO MEMBERS OF THE PUBLIC

18. APPLICATIONS FOR LEAVE OF ABSENCE

ENVIRONMENT

17. WASTE SERVICES - HARD WASTE COLLECTION

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2005 Section 15(2)(g). (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential.)

GOVERNANCE

20. ACTIONS LIST - UPDATE REPORT

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2005 Section 15(2)(g). (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential.)

21. NOTICES OF MOTIONS – QUESTIONS ON NOTICE / WITHOUT NOTICE (CLOSED)

Alderman Lucas returned to the meeting at 6.07 p.m.

Alderman Slade left the meeting at 6.08 p.m.

Alderman Slade returned to the meeting at 6.09 p.m.

21.1. QUESTION ON NOTICE 3 - ALDERMAN K. JOHNSTON

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2005 Section 15(2)(g). (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential.)

21.2. QUESTION ON NOTICE 4 - ALDERMAN K. JOHNSTON

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2005 Section 15(2)(g). (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential.)

6.20 p.m.

All staff except the General Manager and Director Corporate Governance and General Counsel left the meeting.

21.3. QUESTION ON NOTICE 4 - ALDERMAN M. STEVENSON

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2005 Section 15(2)(g). (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential.)

21.4. QUESTION ON NOTICE 5 - ALDERMAN M. STEVENSON

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2005 Section 15(2)(g). (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential.)

Alderman Lucas left the meeting at 6.57 p.m.

Alderman King left the meeting at 6.57 p.m.

Alderman King returned to the meeting at 7.00 p.m.

21.5. QUESTION ON NOTICE 6 - ALDERMAN M. STEVENSON

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2005 Section 15(2)(g). (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential.)

The meeting closed at 7.03 p.m.

Confirmed,

CHAIRMAN