

SPECIAL MEETING OF COUNCIL

Minutes of the Special Meeting of Council held at
the James Young Room, Lerderderg Library, Bacchus Marsh
on Wednesday 8 February 2017,
at 5.00 p.m.

Members:

Cr. David Edwards (Mayor)	East Moorabool Ward
Cr. Tonia Dudzik (Deputy Mayor)	East Moorabool Ward
Cr. Paul Tatchell	Central Moorabool Ward
Cr. Jarrod Bingham	East Moorabool Ward
Cr. John Keogh	East Moorabool Ward
Cr. Tom Sullivan	West Moorabool Ward
Cr. Pat Toohey	Woodlands Ward

Officers:

Mr. Rob Croxford	Chief Executive Officer
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Danny Colgan	General Manager Community Services

Rob Croxford
Chief Executive Officer

AGENDA

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1. OPENING OF MEETING**TEMPORARY CHAIRPERSON**

Crs. Toohey/Keogh

That Cr. Dudzik be appointed Temporary Chairperson for the meeting, in the absence of the Mayor.

CARRIED.

The Deputy Mayor, Cr. Dudzik, opened the meeting at 5.01pm.

2. ACKNOWLEDGEMENT TO COUNTRY

We respectfully acknowledge the traditional owners of this land, their spirits and ancestors.

3. PRESENT

<i>Cr. Jarrod Bingham</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. John Keogh</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>
<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>

Officers:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. John Whitfield</i>	<i>Governance Coordinator</i>
<i>Ms. Melissa Hollitt</i>	<i>Minute Taker</i>

4. APOLOGIES

<i>Cr. David Edwards (Mayor)</i>	<i>East Moorabool Ward</i>
<i>Cr. Paul Tatchell</i>	<i>Central Ward</i>

5. DISCLOSURE OF CONFLICT OF INTEREST

Under the Local Government Act (1989), the classification of the type of interest giving rise to a conflict is; a direct interest; or an indirect interest (section 77A and 77B). The type of indirect interest specified under Section 78, 78A, 78B, 78C or 78D of the Local Government Act 1989 set out the requirements of a Councillor or member of a Special Committee to disclose any conflicts of interest that the Councillor or member of a Special Committee may have in a matter being or likely to be considered at a meeting of the Council or Committee.

Definitions of the class of the interest are:

- a direct interest
 - (section 77A, 77B)
- an indirect interest (see below)
 - indirect interest by close association (section 78)
 - indirect financial interest (section 78A)
 - indirect interest because of conflicting duty (section 78B)
 - indirect interest because of receipt of gift(s) (section 78C)
 - indirect interest through civil proceedings (section 78D)
 - indirect interest because of impact on residential amenity (section 78E)

Time for Disclosure of Conflicts of Interest

In addition to the Council protocol relating to disclosure at the beginning of the meeting, section 79 of the Local Government Act 1989 (the Act) requires a Councillor to disclose the details, classification and the nature of the conflict of interest immediately at the beginning of the meeting and/or before consideration or discussion of the Item.

Section 79(6) of the Act states:

While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must:

- (a) leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and
- (b) remain outside the room and any gallery or other area in view of hearing of the room.

The Councillor is to be notified by the Mayor or Chairperson of the special committee that he or she may return to the room after consideration of the matter and all votes on the matter.

There are important reasons for requiring this disclosure immediately before the relevant matter is considered.

- Firstly, members of the public might only be in attendance for part of a meeting and should be able to see that all matters are considered in an appropriately transparent manner.
- Secondly, if conflicts of interest are not disclosed immediately before an item there is a risk that a Councillor who arrives late to a meeting may fail to disclose their conflict of interest and be in breach of the Act.

Nil.

6. PRESENTATIONS / DEPUTATIONS

The Council has made provision in the business of the Special Meeting of the Council for the making of presentations or deputations to Council in relation to matters presented on the agenda for Council consideration.

Presentations or deputations are required to be conducted in accordance with the requirements contained within the **Presentation/Deputations Protocols and Procedural Guidelines**.

Persons wishing to make a presentation or deputation to the Council on a matter included in the agenda shall inform Council by 1pm on the Friday prior to the meeting by contacting the Chief Executive Officer's Office and registering their name and agenda item being spoken to.

At the meeting the Mayor will invite the persons wishing to make a presentation or delegation to address the Council on the agenda item.

The person making the presentation or deputation is to stand and address the Council on the item. No debate on the item is permitted between the person making the presentation or delegation and the Council.

A maximum of three minutes per presentation or delegation will be allocated. An extension of time may be granted at the discretion of the Mayor.

Councillors, through the Mayor, may ask the person making the presentation or delegation for clarification of matters presented.

The Mayor may direct that a member of the gallery ceases speaking if the above procedure is not followed.

List of Persons making Presentations/Deputations other than in relation to a planning item listed on the agenda:

Nil.

7. BUSINESS

7.1 Councillor Code of Conduct Review

Introduction

File No.: 01/03/002
Author: John Whitfield
General Manager: Satwinder Sandhu

Background

Changes to the Local Government Act 1989 (the Act) early in 2016 set out a new Councillor Conduct Framework.

The Act now outlines a hierarchy of conduct standards, requires an internal resolution procedure to resolve disputes, and mandates that Councillors sign a declaration to abide by the Code. It outlines sanctions which councils can apply to address any failure to meet Code standards.

In accordance with the new Councillor Conduct Framework Moorabool Shire Council adopted its first Councillor Code of Conduct on 29 June 2016.

Section 76C (2) of the Local Government Act 1989 says:

- A Council must, within the period of 4 months after a general election –*
- (a) call a special meeting solely for the purpose of reviewing the Councillor Code of Conduct; and*
 - (b) at that special meeting, approve any amendments to be made to the Councillor Code of Conduct determined by the Council to be necessary following the review of the Councillor Code of Conduct.*

Proposal

On Wednesday 7 December 2016, Councillors considered the current Councillor Code of Conduct at an Assembly of Council. A number of suggested changes were noted at that meeting and these were incorporated into a revised draft Code of Conduct that was considered at a second Assembly of Council on Wednesday 1 February 2017.

At the second assembly discussion took place mainly on the Personal Dealings clause in the Code. The Personal Dealings form included in the draft presented to last Wednesday's assembly has been removed from the Code as it seems to add a complication to the Code that outweighs its possible benefit.

The revised Councillor Code of Conduct is now presented to the Council for its review, amendment (if deemed necessary) and adoption.

Councillors should note that Section 76C(6A) of the Local Government Act 1989 says that within one month of any amendment made to a Councillor Code of Conduct, all councillors must make a declaration stating that they will abide by the revised Councillor Code of Conduct. This declaration must be signed and witnessed by the CEO.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of our community
Objective	Good governance through open and transparent processes and strong accountability to the community.
Strategy	Ensure policies and good governance are in accordance with legislative requirements and best practice.

Financial Implications

There are no financial implications from this report.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Legislative requirements	Failure to comply to the Code	Medium	Council to adopt the revised Councillor Code of Code.

Communications and Consultation Strategy

The Councillor Code of Conduct must be made publicly available on the council's website. This must be done as soon as practicable after it is adopted.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Satwinder Sandhu

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – John Whitfield

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Conclusion

The revised Councillor Code of Conduct as attached to this report is now placed before the Council for its consideration and adoption.

Recommendation:

That Council adopts the revised Councillor Code of Conduct as attached to this report.

Resolution:

Crs. Toohey/Sullivan

That Council adopts the revised Councillor Code of Conduct as attached to this report with the following addition to Section 4.2 The Functions of the Mayor:

“Where good working relationships aren’t present between Councillors the Mayor will take action to remedy the situation including requiring Councillors to attend external mediation” and inform the rest of the sitting Councillors that this action has been taken.

SUSPENSION OF STANDING ORDERS 5.22PM

Resolution:

Crs. Sullivan/Toohey

That Standing Orders be suspended to facilitate a discussion on Item 7.1.

CARRIED.

RESUMPTION OF STANDING ORDERS 5.24PM

Resolution:

Crs. Toohey/Sullivan

That Standing Orders now be resumed to facilitate a return to the business of the Agenda.

CARRIED.

AMENDMENT

Crs. Bingham/Keogh proposed the following Amendment:

*That the Councillor Code of Conduct be amended to include:
Unauthorised recording of a fellow Councillor should be
considered inconsistent with standards that Council has set itself.*

The Amendment was voted upon and was LOST.

Cr. Bingham called for a Division:

*Councillors voting for the resolution:
Cr. Bingham, Cr. Keogh*

*Councillors voting against the resolution:
Cr. Dudzik, Cr. Toohey, Cr. Sullivan*

AMENDMENT

Crs. Bingham/Keogh proposed the following Amendment:

*That the Councillor Code of Conduct be amended to include:
A Councillor using a pseudonym on social media with the intent
on bringing a Councillor or Council into disrepute should be
considered inconsistent with standards that Council has set itself.*

The Amendment was voted upon and was LOST.

Cr. Bingham called for a Division:

*Councillors voting for the resolution:
Cr. Bingham, Cr. Keogh*

*Councillors voting against the resolution:
Cr. Dudzik, Cr. Toohey, Cr. Sullivan*

The Original Motion was voted upon and was CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Thursday 2 February 2017



8. FURTHER BUSINESS AS ADMITTED BY UNANIMOUS RESOLUTION OF COUNCIL

Nil.

9. CLOSED SESSION OF THE MEETING TO THE PUBLIC

Nil.

10. MEETING CLOSURE

The meeting closed at 5.31pm.

Confirmed.....Temporary Chairperson.