

MINUTES
OF THE COUNCIL MEETING OF THE CITY OF TEA TREE GULLY HELD ON
TUESDAY 25 OCTOBER 2022 AT 7.02PM IN THE COUNCIL CHAMBERS, 571
MONTAGUE ROAD, MODBURY

1. Opening Prayer and Welcome

The Mayor read the Opening Prayer and Acknowledgement of Country Statement.

2. Attendance Record:

2.1 Present

His Worship Mayor K Knight, Crs B Keane, J Lintvelt, L Jones, R Unger, D Wyld, L Petrie, R Coleman, P Field, S Keane and K Foreman.

2.2 Apologies

Cr B Rankine.

2.3 Leave of Absence

Nil

2.4 Record of Officers in Physical Attendance onsite

Mr R McMahon	Chief Executive Officer
Mr J Robbins	General Manager Strategy & Finance
Mrs S Blackwell	General Manager Corporate Services
Mrs F Birch	General Manager City Operations
Ms C Leversedge	Acting General Manager Community Services
Ms I Cooper	Manager Governance & Policy
Mrs D Taglierini	Governance Advisor
Miss K Barnes	Governance Administration Officer
Mr G D'Aloia	Manager Civil Assets
Mr N Grainger	Manager City Development
Mr S Simpson	Acting Team Leader Financial Accounting
Mrs I Wilkshire	Manager City Strategy
Mr D Hartzenberg	Group Coordinator, Operations, Fleet & Property Services
Mr J Foong	Group Coordinator, Water, Waste & Environment

Record of Officers in Attendance via Electronic Means (audio-visual link)

Nil

2.5 Record of Number of Persons in the Public Gallery – Physical Attendance

6 Attendees

2.6 Record of Media in Physical Attendance

Nil

3. Confirmation of Minutes to the Previous Meeting

Moved Cr Foreman, Seconded Cr Coleman

That the Minutes of the Council Meeting held on 11 October 2022 be confirmed as a true and accurate record of proceedings.

Carried Unanimously (1351)

4. Public Forum

Mr Mark Shean spoke in relation to the petition report titled “Petition – Cease plans to construct a footpath along Silverlake Crescent Highbury”.

5. Deputations - Nil

6. Presentations - Nil

7. Petitions

7.1 Petition - Cease plans to construct a footpath along Silverlake Crescent Highbury (D22/179526)

Council received the petition.

8. Declaration of Conflicts of Interests - Nil

9. Adjourned Business - Nil

10. Motions Lying on the Table - Nil

11. Committee Reports

Service Review Committee - Nil

Audit Committee - Nil

Governance and Policy Committee - Nil

CEO Performance and Remuneration Review Committee - Nil

Traffic Management Safety Committee - Nil

12. Management Reports

Office of the Chief Executive Officer - Nil

City Operations

12.1 Electric Vehicle Charging Stations (D22/182443)

Moved Cr Jones, Seconded Cr Lintvelt

1. That Council having considered the report titled “Electric Vehicle Charging Stations” and dated 25 October 2022, notes the findings of the report.
2. That the Chief Executive Officer be requested to bring a report back to Council within 6 months which further details the following:
 - a. the estimated costs of installing Electric Vehicle Charging Stations at Civic Park and Councils Civic Centre car park, and any other identified and suitable locations in the City.

- b. the outcome of any conversations with external organisations and/or third party providers who may be installing or consider installing Electric Vehicle charging stations in the City of Tea Tree Gully.
- c. any grant funding opportunities that may arise which would contribute to supporting the extension of electric vehicle charging stations in the City.

Carried Unanimously (1352)

Corporate Services

12.2 Local Government Association Annual General Meeting - October 2022 Agenda Items (D22/177510)

Moved Cr Wyld, Seconded Cr S Keane

That having considered the report titled “Local Government Association Annual General Meeting – October 2022 Agenda Items” and dated 25 October 2022, Council supports the Deputy Mayor (or proxy) as Council’s voting delegate at the Local Government Association (LGA) Ordinary General Meeting to be held on 28 October 2022, to cast the Council vote using their own discretion.

Carried Unanimously (1353)

12.3 Appointment of Acting Chief Executive Officer (D22/181475)

Moved Cr S Keane, Seconded Cr Coleman

1. That having considered the report titled “Appointment of Acting Chief Executive Officer” and dated 25 October 2022, Council considers the following persons in respect of section 102(b) of the Local Government Act 1999 able to be appointed by the CEO to the position of the Chief Executive Officer in their absence:
 - Justin Robbins, General Manager Strategy & Finance
 - Michael Pereira, General Manager Community Services
 - Felicity Birch, General Manager City Operations
 - Shelley Blackwell, General Manager Corporate Services

Carried Unanimously (1354)

Strategy & Finance

12.4 Quarter One Budget Review For Financial Year Ending 30 June 2023 (D22/181774)

Moved Cr Field, Seconded Cr Unger

That Council adopts the Quarter One Budget Review for the period 1 July 2022 to 30 June 2023, as detailed in Attachment 1 of the report entitled “Quarter One Budget Review for Financial Year Ending 30 June 2023” and dated 25 October 2022 which reflects a revised forecast surplus of \$4.367m.

Carried Unanimously (1355)

Community Services

12.5 Council Assessment Panel Membership (D22/178490)

During the debate, Cr Unger left the meeting at 8.11pm and re-entered the meeting at 8.13pm.

Moved Cr Jones, Seconded Cr Unger

Appointment of Presiding Member

That Council reappoint Mr Mark Adcock as the Presiding Member to the Council Assessment Panel until 1 December 2022.

Leave of the meeting was sought with the consent of the mover and seconder to vary the motion to change the reappointment term from 1 December 2022 to 1 March 2023. Leave was granted.

Motion as varied

Appointment of Presiding Member

That Council reappoint Mr Mark Adcock as the Presiding Member to the Council Assessment Panel until 1 March 2023.

Amendment

Moved Cr B Keane, Seconded Cr S Keane

Appointment of Presiding Member

That Council reappoint Mr Mark Adcock as the Presiding Member to the Council Assessment Panel until 1 November 2024.

Lost

Motion as varied

Appointment of Presiding Member

That Council reappoint Mr Mark Adcock as the Presiding Member to the Council Assessment Panel until 1 March 2023.

Carried Unanimously (1356)

Moved Cr Jones, Seconded Cr Unger

Appointment of Independent Member

That Council reappoint:

- Mr Julian Rutt
- Mr Alex Mackenzie
- Mrs Beth Merrigan

as the Independent Member(s) to the Council Assessment Panel until 1 March 2023.

Appointment of Deputy Independent Member

That Council reappoint Ms Nitsan Taylor as Deputy Independent Member to the Council Assessment Panel until 1 March 2023.

Carried Unanimously (1357)

13. Notice(s) of Motions - Nil

14. Motions without Notice - Nil

15. Questions on Notice - Nil

16. Questions without Notice - Nil

17. Mayor's Report - Nil

18. Council Delegates and Activities Report

18.1 Cr Coleman – Delegates Report – Murray Darling Association – National Conference and Annual General Meeting 2022

Council received the delegates report from Cr Coleman.

Cr Jones left the meeting at 8.23pm.

19. Information Reports

The following Information reports were received at the meeting:

19.1 Golden Grove Neighbourhood and Commercial Code Amendment (D22/182090)

19.2 Call for Nominations - Native Vegetation Council (D22/182112)

19.3 Call for Nominations - SA Boating Facility Advisory Committee (D22/182405)

Cr Jones re-entered the meeting at 8.26pm.

Cr S Keane left the meeting at 8.27pm.

20. Status Report on Resolutions - Nil

21. Other Business

Cr Wyld congratulated Cr Jones on the successful appointment to Greater Adelaide Region of Councils (GAROC) Board.

Cr S Keane re-entered the meeting at 8.29pm.

Crs Field and Coleman farewelled and thanked the Elected Members and Staff of Council and paid tribute to some of their accomplishments whilst being an Elected Member on Council.

Crs Petrie, S Keane and Jones congratulated and thanked Crs Field and Coleman for their contributions during their time on Council.

22. Section 90(2) Local Government Act 1999 – Confidential Items

22.1. Third Party Final Report - 2021/01843 (D22/183216)

Recommendation for Moving into Camera

Moved Cr Foreman, Seconded Cr Unger

1. That pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that the public (except staff on duty) be excluded from the meeting to enable discussion on the Third Party Final Report - 2021/01843.
2. That the Council is satisfied that pursuant to section 90(3)(j)(i) and (j)(ii) of the Local Government Act 1999, the information be received, discussed or considered in relation to this item is:
 - information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); AND
 - information the disclosure of which would, on balance, be contrary to the public interest .
 - on the basis that a third party agency has directed Council for this information to not be publicly released.
3. In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in the public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the

public has been outweighed in the circumstances on the basis that members of the public are not to be included in matters involving third party agencies where this information has been requested to remain in confidence.

Carried Unanimously (1358)

The following staff members on duty remained at the meeting for the following item:

Mr R McMahon, Mrs S Blackwell, Mr J Robbins, Ms C Leversedge, Mrs F Birch, Ms I Cooper, Miss K Barnes and Mrs D Taglierini.

22.1 Third Party Final Report - 2021/01843 (D22/183216)

Crs S Keane and Foreman left the meeting at 8.48pm.

Pursuant to sections 73 & 74 of the Local Government Act 1999, Mayor Knight declared a material conflict of interest in relation to the matter on the basis that he may be involved in the matter. He left the meeting and its close vicinity at 8.49pm and did not return for the remainder of the meeting.

Deputy Mayor Jones took the chair as Presiding Member at 8.49pm.

Crs S Keane and Foreman re-entered the meeting at 8.50pm.

Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Unger declared a perceived conflict of interest in relation to the matter on the basis that he may have participated in the investigation process. He indicated he would deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted on.

Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Field declared a perceived conflict of interest in relation to the matter on the basis that he may have participated in the investigation process. He indicated that he intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.

Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Petrie declared a perceived conflict of interest in relation to the matter on the basis that it directly concerns an agency or instrumentality of the Crown, the South Australian Civil and Administrative Tribunal, of which she had been an assessor and potentially may be in the near future. She indicated that she intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.

Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr B Keane declared a perceived conflict of interest in relation to the matter on the basis that he may have participated in the investigation process. He indicated that he intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.

Pursuant to sections 75 & 75A of the Local Government Act 1999, Cr Wyld declared a perceived conflict of interest in relation to the matter on the basis that he may have participated in the investigation process. He indicated that he would deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.

Pursuant to sections 75 & 75A of the Local Government Act 1999, Deputy Mayor Jones declared a perceived conflict of interest in relation to the matter on the basis that he may have participated in the investigation process. He indicated that he intended to deal with the matter in a transparent and accountable way by leaving the meeting while the matter was discussed and voted.

On the basis that a quorum at the meeting could not be formed due to the number of council members that proposed to exclude themselves from the meeting in order to comply with section 75A(1) for the item, the following members stayed in the meeting pursuant to section 75A(3) to participate in relation to the matter, to form a quorum for the meeting:

- *Cr Unger*
- *Cr Field*
- *Cr Petrie*
- *Cr B Keane*
- *Cr Wyld*
- *Deputy Mayor Jones*

Moved Cr S Keane, Seconded Cr Petrie

That having considered the report titled “Third Party Final Report - 2021/01843” and dated 25 October 2022, Council:

1. Notes the final report from the Ombudsman dated 24 October 2022 regarding conduct of Mayor Kevin Knight as provided in Attachment 2 of this report.
2. Advises the Ombudsman that Council accepts the final findings and recommendations which states:
 - *“Mayor Knight’s decision to not issue an apology as set out in paragraph 4(a) of Resolution 388 of the council’s meeting of 24 March 2020 does not amount to misconduct under Part 3 of the Code of Conduct; however, it does amount to a breach of Part 2.6 of the Code of Conduct*

- *Mayor Knight's failure to attend sexual harassment in the workplace training as set out in paragraph 4(d) of Resolution 388 of the council's meeting of 24 March 2020 amounts to misconduct under Part 3 of the Code of Conduct.*
- *Mayor Knight has engaged in repeated or sustained inappropriate behaviour, as listed in Part 2 of the Code of Conduct, amounting to misconduct under Part 3 of the Code of Conduct.*

In doing so Mayor Knight has breached the provisions of section 63 of the Local Government Act.

To remedy these errors, I recommend pursuant to section 25(2) of the Ombudsman Act and section 263B(1)(d) of the Local Government Act that the council:

1. *Ensure that a complaint is lodged against Mayor Knight with the South Australian Civil and Administrative Tribunal (SACAT) for:*
 - a. *failure to issue an apology as set out in paragraph 4(a) of Resolution 388 of the council's meeting of 24 March 2020, a breach of Part 2.6 of the Code of Conduct*
 - b. *engagement in repeated and sustained inappropriate behaviour as listed in Part 2 of the Code of Conduct which amounts to misconduct under Part 3 of the Code of Conduct for Council Members”.*
3. *Notes that a complaint must be lodged against Mayor Knight in the South Australian Civil and Administrative Tribunal (SACAT) by the Chief Executive Officer who is empowered to lodge such complaint in accordance with section 264(1)(b) of the Local Government Act 1999.*

Carried Unanimously (1359)

Retention of confidential documents:

Moved Cr Petrie, Seconded Cr Foreman

1. That having considered the agenda item titled “Third Party Final Report - 2021/01843” and dated 25 October 2022 in confidence under section 90(2) & (3)(j)(i) and (j)(ii) and Section 91(7) of the Local Government Act 1999:
 - information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); AND
 - information the disclosure of which would, on balance, be contrary to the public interest

the Council pursuant to section 91(7) of the Act orders that the report, attachments and minutes relevant to this item be retained in confidence until the provisional declaration of the local government elections has been made by the returning officer, or earlier if authorised for release by the Ombudsman.
2. That Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91(7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Deputy Mayor and reporting to the Elected Members of the revocation.

Leave of the meeting was sought with the consent of the mover and seconder to vary dot point 2 of the motion to remove the wording “consulting with the Deputy Mayor and reporting to the Elected Members of the revocation”. Leave was granted

Motion as varied

1. That having considered the agenda item titled “Third Party Final Report - 2021/01843” and dated 25 October 2022 in confidence under section 90(2) & (3)(j)(i) and (j)(ii) and Section 91(7) of the Local Government Act 1999:
 - information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); AND
 - information the disclosure of which would, on balance, be contrary to the public interest

the Council pursuant to section 91(7) of the Act orders that the report, attachments and minutes relevant to this item be retained in confidence until the provisional declaration of the local government elections has been made by the returning officer, or earlier if authorised for release by the Ombudsman.

2. That Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91(7) of the Local Government Act 1999.

Carried Unanimously (1360)

23. Date of Next Ordinary Meeting

29 November 2022

The meeting was declared closed at 9.25pm.

Confirmed.....
Mayor 29 November 2022