

**MINUTES
OF THE COUNCIL MEETING OF THE CITY OF TEA TREE GULLY HELD ON
TUESDAY 12 MARCH 2024 AT 7.03PM 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

Her Worship Mayor M Ryan, Crs T Sinclair, B Keane, J Hawkvelt, R Unger, I Zagladov, L Petrie, K Drozdoff, B Lawrenson, M Champion, S Keane and K Foreman.

2.2 Apologies

Cr L Jones.

2.3 Leave of Absence

Nil

2.4 Record of Officers in Attendance (physical or electronic)

Ryan McMahon	Chief Executive Officer
Justin Robbins	General Manager Strategy & Finance
Leisha Bond	General Manager Corporate Services
Felicity Birch	General Manager City Operations
Michael Pereira	General Manager Community Services
Deana Taglierini	Coordinator, Governance
Kristyn Barnes	Governance Administration Officer
Ingrid Wilkshire	Manager City Strategy
Victoria Masterman	Lead – Precincts & Placemaking
Tony Amato	Lead – Waste & Strategic Projects
Olivia Harvey	Manager Customer and Communications
Carly Didcote	Public Art Project Officer
Gabby D'Aloia	Manager Technical & Engineering Services

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

Nil

3. Confirmation of Minutes to the Previous Meeting

Moved Cr Champion, Seconded Cr Drozdoff

That the Minutes of the Council Meeting held on 27 February 2024 be confirmed as a true and accurate record of proceedings.

Carried Unanimously (399)

4. Public Forum - Nil

5. Deputations - Nil

6. Presentations - Nil

7. Petitions - Nil

8. Adjourned Business - Nil

9. Motions Lying on the Table - Nil

10. Committee Reports

Service Review Committee - Nil

Audit & Risk Committee - Nil

Governance & Policy Committee

10.1 Recommendations from Governance and Policy Committee held on 6 March 2024

Review of Terms of Reference for the Governance and Policy Committee (D24/14860)

Moved Cr Unger, Seconded Cr Hawkvelt

That Council adopts the review Terms of Reference for the Governance and Policy Committee as provided in Attachment 1 of the report, noting that the Committee will now meet once a quarter on a third Tuesday of a month.

Carried (400)

Land Management Agreements and Encumbrance Policy (D23/102826)

Moved Cr Lawrenson, Seconded Cr Hawkvelt

That the “Land Management Agreements and Encumbrance Policy” as reviewed by the Governance and Policy Committee on 6 March 2024 be revoked.

Carried (401)

Waste & Resource Recovery Policy (D23/102955)

Moved Cr Lawrenson, Seconded Cr Hawkvelt

That the “Waste & Resource Recovery Policy” as reviewed by the Governance and Policy Committee on 6 March 2024 be adopted as amended.

Carried Unanimously (402)

CEO Performance Review Committee - Nil

11. Management Reports

Office of the Chief Executive Officer - Nil

City Operations - Nil

Corporate Services

11.1 Sister City Initiatives 2024 and 2025 (D24/13090)

Moved Cr Lawrenson, Seconded Cr Petrie

That Council refers the activity program as detailed in Attachment 1 of this report to an Elected Member workshop to be held to allow for input from Elected Members, further refinement prior to adoption, and to support Council in making an informed and responsible decision.

Carried Unanimously (403)

Strategy & Finance

11.2 Elliston Reserve update and proposed approach (D24/16597)

Moved Cr Lawrenson, Seconded Cr Champion

That Council:

1. Supports the development of high-level options and cost estimates to revitalise Elliston Reserve
2. Authorises the CEO to seek external funding opportunities to support the revitalization

Carried Unanimously (404)

Community Services - Nil

12. Notice(s) of Motions

12.1 Notice of Motion - Milne Road Traffic Management Study (Cr Kristianne Foreman) (D24/17194)

Moved Cr Foreman, Seconded Cr Petrie

1. That Council undertake a traffic management study on Milne Road, from the Council boundary (near Caroon Avenue, Modbury Heights) to Golden Grove Road which would include consideration of:
 - a. Traffic data (volume/count, speed etc)
 - b. Crash history for the area
 - c. Pedestrian safety
 - d. Consideration of existing infrastructure
 - e. Access and egress
 - f. Traffic control device or calming options and their associated impacts

- g. Parking considerations
 - h. Recommendations, including considering of the need for a Local Area Traffic Management Plan
 - i. Any other information the CEO deems relevant.
2. That funding be included in 2024-25 budget to commence the study.

Carried Unanimously (405)

12.2 Notice of Motion - Request to tighten adult sex products and services rules and regulations (Cr Irena Zagladov) (D24/17569)

During the moving of the motion, the Mayor sought leave of the meeting to allow Cr Zagladov an additional 3 minutes of debating time. Leave was granted.

Moved Cr Zagladov, Seconded Cr Unger

1. That Council requests that the Mayor write to the State Government's Minister for Planning, with a copy sent to all MLCs and State MPs, requesting a state-wide overhaul of the planning rules and regulations in relation to venues/establishments that sell Adult Sex products including giving consideration to (but not limited to):
 - Tightening the rules around their ability to display products in windows
 - Restricting their ability to advertise on billboards which face outside the shopfront
 - Restricting entry to such stores/establishments so that only people over the age of 18 years old are allowed to enter
2. That Council requests that the Mayor write to the Australia Government's Minister for Communications, with a copy sent to all Senators and Federal MPs, requesting a nation-wide overhaul of the communications and advertising rules and regulations in relation to venues/establishments that sell Adult Sex products and/or services including giving consideration to (but not limited to) banning media advertising of such products and services during times when people under the age of 18 years old can be reasonably expected to be reached by such advertising.
3. That a copy of this motion is attached to the Mayor's letter.

Carried Unanimously (406)

13. Motions without Notice - Nil

14. Questions on Notice

14.1 Questions on Notice - Discharge of Encumbrances (Cr Unger) (D24/16081)

Refer Attachment 1 of the minutes.

15. Questions without Notice

Cr Zagladov asked questions in relation to Easter activities being offered in the Library.

16. Mayor's Report, Council Delegates and Activities Report

Council received the Mayor's report.

17. Information Reports - Nil

18. Status Report on Resolutions

18.1 Status Report on Council Resolutions - Pending Actions (D24/16099)

Council received the Status Report on Council Resolutions – Pending Actions.

18.2 Status Report on Council Resolutions - Completed Actions (D24/16100)

Council received the Status Report on Council Resolutions – Completed Actions.

19. Other Business

Cr Lawrenson thanked the CFS and MFS volunteers for their efforts in extinguishing the Highbury bushfire.

20. Confidential Items

20.1. Submission - Remuneration Tribunal of SA - Local Government Chief Executive Officers (D24/11015)

Recommendation for Moving into Camera

Moved Cr Champion, Seconded Cr Foreman

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 Submission - Remuneration Tribunal of SA - Local Government Chief Executive Officers.
2. That the Council is satisfied that pursuant to section 90(3)(a) 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 involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)
 - in that details of the CEO's personal affairs (personal qualities and attributes) will be discussed and submitted to the Remuneration Tribunal of SA, which may be sensitive and only known to those who have participated in a performance review process or determination.
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 Council's proposed submission contains details of personal qualities and attributes of the CEO for the purposes of informing the Remuneration Tribunal of SA's determination.

Carried Unanimously (407)

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

Deana Taglierini and Kristyn Barnes

20.1 Submission - Remuneration Tribunal of SA - Local Government Chief Executive Officers (D24/11015)

Confidential Page Removed

The Confidential Resolution No 409 has been withdrawn from the public minute record in accordance with Resolution No 410.

Retention of confidential documents:

Moved Cr S Keane, Seconded Cr Champion

1. That having considered the agenda item titled “Submission - Remuneration Tribunal of SA - Local Government Chief Executive Officers” and dated 12 March 2024 in confidence under section 90(2) & (3) a and Section 91(7) of the Local Government Act 1999:
 - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

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 (with the exception of providing the Remuneration Tribunal SA Council’s submission) until publication of the Remuneration Tribunal of SA’s determination on CEO remuneration, or until the Council resolves otherwise, whichever occurs first.

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 Mayor and reporting to the Elected Members of the revocation.

Carried Unanimously (410)

21. Date of Next Ordinary Meeting

26 March 2024

The Mayor declared the meeting closed at 8.56pm.

Confirmed.....
Mayor 26 March 2024

Attachment 1

Council Meeting - 12 March 2024

Questions on Notice - Discharge of Encumbrances (Cr Unger) D24/16081



Cr Rob Unger asked the following question on notice:

Question:

Is there a possibility of bringing all encumbrances together to the Chambers to discharge or is it by law that we have to wait until they be requested to be removed?

Cr Rob Unger
28 February 2024

Response:

Legal advice in response to the question: “is it by law that we have to wait until they be requested to be removed” is below:

“The answer to your question below will depend upon the terms of the particular encumbrance. Not all encumbrances are created on precisely the same terms, with precisely the same obligations for Council. Further, some may constitute “common building schemes” which will impact upon whether Council can only discharge one encumbrance alone, leaving others in existence within the scheme.

These variables will impact upon whether Council can and/or must take action to discharge an encumbrance, whether of its own initiative or at the request of a party subject to an encumbrance. For these reasons, it would be best to consider each encumbrance on a case-by-case scenario and to then determine the appropriate course of action regarding discharge in each instance.”

During 2011 and 2012 Council resolved to discharge encumbrances for numerous properties that formed part of an estate division and contained a sunset clause and/or the dwellings had been constructed. As a consequence the encumbrances had become redundant. These included “Ladywood Village” Modbury Heights, the “Gateway Village” and “Highgrove Estate” Wynn Vale, “Reservoir Rise” Hope Valley, and other properties that

were part of subdivisions in Greenwith, Fairview Park, Ridgehaven, Hope Valley and Holden Hill. In most of the cases the encumbrances restricted fencing type, colours, roof types etc.

Other than for the above, it has been common practice for land owners to request that Council discharge encumbrances where they are the Encumbrancee. These have been for encumbrances that limit the use of granny flats (essentially a second dwelling) and place restriction on division of the land to create a separate title.

Encumbrances vary in their content and intent. There is no specific register for encumbrances in Council's records management system as these are recorded at the individual property level. To actively seek out land owners and provide them with the opportunity to discharge the encumbrance on their land would firstly require staff to identify which properties had encumbrances registered on the land and secondly to liaise with multiple landowners. This would be time-consuming for staff and would only be for the benefit of a few.

Given there are multiple properties and land owners involved, it is unlikely that all remaining encumbrances could be brought together for Council to discharge in bulk at the same time as part of the one Council report.

The alternative, most efficient and practical approach for Council to manage this going forward would be to delegate authority to the CEO to discharge encumbrances upon the request of the land owner with the land owner responsible for costs associated with the discharge.

Council staff, in particular those in the City Development and City Strategy departments can also be pro-active in recommending this option to land-owners when receiving enquiries or development applications. The number of encumbrances that Council is party-to will reduce over time, benefitting the land owner and having minimal administrative burden on the Council.

For noting: At the time of writing this report, Council's *Land Management Agreements and Encumbrance Policy* is scheduled to be reviewed by the Governance & Policy Committee on 6 March 2024. The recommendation is for the policy to be revoked on the basis that there is no need for such a policy. This is in part due to the relative low volume of LMAs and encumbrances that Council deals with, adequate coverage by other legislation, and preference to deal with each request on a case-by-case basis.

Attachments

N/A

Report Authorisers

Ingrid Wilkshire Manager City Strategy	8397 7292
Justin Robbins General Manager Strategy & Finance	8397 7444
Ryan McMahon Chief Executive Officer	8397 7297