

**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON  
WEDNESDAY 23 JULY 2014 AT 7.30 PM IN THE COUNCIL CHAMBERS,  
115 ELLEN STREET, PORT PIRIE.**



1.0 PRESENT: His Worship the Mayor B I Vanstone, Crs G A Chivell, D C Devlin, S E Hortin, G A Nayda, J Paparella and L W Stephens.

Dr A K Johnson, Chief Executive Officer; C Byles, Director Corporate & Community; P Clifton, Director Development & Regulation; W Reimann, Director Finance & Information; K Johnson, Director Infrastructure and J Christensen, Minute Secretary.

Media: 2 Gallery: 2

2.0 APOLOGIES: **MOVED Cr Paparella** **SECONDED Cr Gadaleta**  
**OM148/14** That leave of absence from this meeting be granted to Crs M W Basley and N K Wilson.

**CARRIED**

3.0 MINUTES – CONFIRMATION OF

3.1 Ordinary Meeting of Council : 25 June 2014

**MOVED Cr Devlin** **SECONDED Cr Chivell**

**OM149/14** That the minutes of the Ordinary Meeting of Council held on the 25 June 2014, be received.

**CARRIED**

**MOVED Cr Hortin** **SECONDED Cr Devlin**

**OM150/14** That the minutes of the Ordinary Meeting of Council held on the 25 June 2014, be endorsed.

**CARRIED**

3.2 Special Meeting of Council : 9 July 2014

**MOVED Cr Devlin** **SECONDED Cr Hortin**

**OM151/14** That the minutes of the Special Meeting of Council held on the 9 July 2014, be received.

**CARRIED**

**MOVED Cr Paparella** **SECONDED Cr Devlin**

**OM152/14** That the minutes of the Special Meeting of Council held on the 9 July 2014, be endorsed.

**CARRIED**

4.0 MATTERS ARISING: Nil

5.0 MEMBERS' REPORTS:

5.1 Mayoral Report

**MOVED Cr Chivell** **SECONDED Cr Devlin**

**OM153/14** That the Mayoral Report for July 2014 be received, the contents noted and the attendance of the Mayor at meetings and functions be endorsed.

**CARRIED**

5.2 Members' Reports

Members advised of their attendances at various community events and other information on their activities for the period 26 June to 23 July 2014.

5.0 MEMBERS' REPORTS:

5.2 Members' Reports (Cont'd)

Steve Wilsdon – Former Parks and Recreation Supervisor

Mayor Vanstone recognised the efforts of Council's former Parks and Recreation Supervisor, Mr Steven Wilsdon, having served the Port Pirie Regional Council for 22 years. Mr Wilsdon, who has taken a position in Iron Knob, has conveyed his appreciation and thanked Elected Members and Council staff for the opportunities and experience afforded to him by Council.

6.0 QUESTIONS WITH NOTICE:

6.1 Public Question Time: Nil

6.2 Question with Notice:

6.2.1 Roadworks – Rural Road Network

Council received questions on notice from Cr Shirley Hortin relating to a Memorandum of Agreement which was signed off before amalgamation took place between the District Council of Pirie and The Corporation of the City of Port Pirie, which stated:

20.4 Roadworks

*"There shall be constructed, by way of addition to the rural road network in the District area, fifteen (15) kms of new bitumen seal (associated with construction of roads) and fifteen(15) kms of roadbase preparation in each five (5) year period, for a term of twenty (20) years from 1 July 1996, with a review of this arrangement to commence on 1 July 2016. Such road construction shall be in addition to normal road maintenance and re-sealing and construction of roads not intended to be bituminised."*

Q(a): "If clause 20.4 of the MOU has been honoured by Council?"

**A(a): The amalgamation of the District Council of Pirie with the Corporation of the City of Port Pirie in July 1996 was followed closely by the amalgamation of the Port Pirie City and District Council with the District Council of Crystal Brook-Redhill in March 1997. This second amalgamation was accompanied by a Voluntary Amalgamation Proposal of which the MOA of the first amalgamation is an appendix to.**

**It is understood that the Council immediately after amalgamation endeavoured to honour the MOA. However, it is believed that due to a number of relevant changes to thinking across the local government sector some time after amalgamation, that honouring the MOA was not sustainable.**

Q(b): "If not why not?"

**A(b): The determination of the Annual Business Plan and Budgets is carried out each year by the democratically elected members of the Council at that time in accordance with Section 123 of the Local Government Act 1999. In determining projects and allocating resources, Council must take into account the Council's long-term financial plan and relevant issues relating to the management and development of infrastructure and major assets by the Council.**

## 6.0 QUESTIONS WITH NOTICE:

### 6.2 Question with Notice:

#### 6.2.1 Roadworks – Rural Road Network (Cont'd)

**Whether or not the MOA constitutes a legally binding contract depends on how the Council of the time chooses to interpret the document.**

**The definition of Memorandum of Understanding (MOU) according to Wikipedia is: “a *bilateral or multilateral agreement between two or more parties. It expresses a convergence of will between the parties, indicating an intended common line of action. It is often used in cases where parties either do not imply a legal commitment or in situations where the parties cannot create a legally enforceable agreement. It is a more formal alternative to a gentlemen's agreement.*”**

**Alternatively, also by Wikipedia definition “a *Memorandum of Agreement (MOA) or cooperative agreement is a document written between parties to cooperate on an agreed upon project or meet an agreed objective. The purpose of an MOA is to have a written understanding of the agreement between parties.*”**

**Q(c): Can a report be brought back to Council (before Caretaker mode comes into place) to provide details of what roadworks have been completed in what was known as the District Council of Pirie since the signing of the MOU took place?**

**A(c): The 2013-2023 Long Term Financial Plan and the 2013-2023 Asset Management Plan, incorporating the ten year capital works program, was adopted by Council in July 2013.**

**In reviewing the previous Capital Works Program for the period 2007-2011, the requirements of the MOA were not reflected in the capital works proposed for that period.**

**A very brief look into the road resheeting completed since 1996 has revealed that:**

**Former DC Pirie area:  
1997 to 2013 = 264 km**

**Former DC Crystal Brook Redhill area:  
1996 to 2013 = 326 km**

**A more detailed report could be brought back to a future Ordinary Meeting of Council, or more appropriately for consideration by the Asset Management Committee as part of its review of the ten year capital works program. A report to the August Ordinary Meeting would not necessarily be a good use of Council resources at this critical time of year. It would mean diverting resources away from scoping and delivery of this year's capital works program.**

**Having said this, the former DC Pirie area will benefit from substantial work in the coming year, with Abattoirs Road having been identified as a priority for upgrading as a strategic road.**

6.0 QUESTIONS WITH NOTICE:

6.2 Question with Notice:

6.2.1 Roadworks – Rural Road Network (Cont'd)

In addition, very significant funding has been allocated in the 2014/15 capital works budget for resheeting roads in the Napperby/Nelshaby area.

A quick estimate to construct the 15 km of new pavement and seal per five year period would be almost \$1 million per year in the former DC Pirie area. Clearly, if this was to be adopted by Council, significant funds would need to be redirected from committed projects which have been identified as higher priorities. It is expected that this would be seen as poor management of resources by the broader community.

It is worthy to consider the Financial Sustainability Inquiry of 2005 which among other things, identified significant deficiencies in the way Councils planned their capital works programs. In particular, the Inquiry identified that Councils were not committing enough resources to the renewal and replacement of their existing assets. This was as a result of having inadequate long term planning and poor data on their road networks.

Subsequently, legislation was introduced by the State Government to require Councils to better plan for their future. As a result, Council now has a viable long term capital works program which is funded by a sustainable long term financial plan. It also now has an asset management system and increasing levels of data to enable the best possible works programs can be developed into the future.

The Councils of 1996 could not have foreseen these requirements. Their suggestions to nominate specific road construction requirements with restrictive rating models would compromise the modern methodology for Council to plan “whole of district” priorities using “whole of district” funds. In addition, recent infrastructure data and better understanding of condition rating, useful lives and intervention timeframes now ensure a much more mature and economic approach to the long term management of Council’s primary assets.

**OM154/14**      **MOVED: Cr Hortin**                      **SECONDED: Cr Gadaleta**  
That the matter be referred to the Asset Management Committee and the next budget review for the staged sealing to be completed on the remaining 4.6km of Gulf View Road, Napperby.  
**CARRIED**

7.0 QUESTIONS WITHOUT NOTICE: Nil

8.0 DELEGATIONS/INTERVIEWS: Nil

9.0 NOTICES OF MOTION: Nil

10.0 COUNCIL COMMITTEES: Nil

11.0 PETITIONS: Nil

12.0 CORRESPONDENCE:

**MOVED: Cr Devlin**                      **SECONDED: Cr Gadaleta**  
**OM155/14**      That correspondence provided for information be received.

**CARRIED**

12.1                      Correspondence for Information:

12.1.1                  Central Local Government Region re Notice of AGM and call for Office Bearers.

12.2                      Correspondence for Decision:      Nil

13.0 ITEMS FOR CONSIDERATION AS TO CONFIDENTIALITY:

13.1                      Swimming Pool Contract

Pursuant to Section 90 (3) (k)

**MOVED Cr Chivell**                      **SECONDED Cr Gadaleta**  
**OM156/14**      Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public with the exception of Dr A Johnson, CEO; C Byles, Director Corporate & Community; W Reimann, Director Finance & Information; P Clifton, Director Development & Regulation; K Johnson, Director Infrastructure and J Christensen, Minute Secretary, be excluded from attendance at the meeting for Agenda Item 13.1 (Swimming Pool Contracts).

The Council is satisfied that pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda item are tenders for the supply of goods, the provision of services or the carrying out of works.

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 because the information to be disclosed and discussed has the potential to impact adversely on each of the tenderers as competitive commercial information will be disclosed.

**CARRIED**

Section 91(7) Order

**MOVED Cr Hortin**                      **SECONDED Cr Paparella**  
**OM157/14**      That having considered Agenda Item 13.1 (Swimming Pool Contracts) in confidence under Section 90(2) and (3)(k) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the tender documents and all minutes be retained in confidence for a period of 6 months or until the tender process has been finalised.

**CARRIED**

Released from Confidentiality

The Swimming Pool contract was awarded to the YMCA.

13.2 CEO Performance Review Committee – Minutes

Pursuant to Section 90(3)(a) Order  
**MOVED Cr Hortin                      SECONDED Cr Rohde**  
OM158/14 Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public be excluded from attendance at the meeting for Agenda Item 13.2 (CEO Performance Review Committee – Minutes).

The Council is satisfied that pursuant to section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda item is Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the Chief Executive Officer, in that details of his performance review will be discussed.

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 because the disclosure of details of the Chief Executive Officer's performance may be prematurely be disclosed before the details of the review have been discussed with the Chief Executive Officer.

**CARRIED**

Section 91(7) Order  
**MOVED Cr Rohde                      SECONDED Cr Paparella**  
OM159/14 That having considered Agenda Item 13.2 (CEO Performance Review Committee Minutes) in confidence under Section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council pursuant to Section 91(7)(b) of that Act orders that the minutes be retained in confidence for a period of 12 months.

**CARRIED**

14.0 OFFICERS' REPORTS:

14.1 CHIEF EXECUTIVE OFFICER  
**MOVED Cr Stephens                      SECONDED Cr Nayda**  
OM160/14 That the report be received.

**CARRIED**

14.1.2 LGA Spencer Gulf Cities Zone  
**MOVED Cr Stephens                      SECONDED Cr Nayda**  
OM161/14 That, in accordance with Section 18.1 of the Local Government Association of South Australia constitution, Port Pirie Regional Council resolve to make application to join the Spencer Gulf Cities zone effective immediately, and formally advise the LGA of this decision.

**CARRIED**

14.2 CORPORATE & COMMUNITY  
**MOVED Cr Paparella                      SECONDED Cr Rohde**  
OM162/14 That the report be received.

**CARRIED**

14.3 DEVELOPMENT & REGULATION  
**MOVED Cr Hortin                      SECONDED Cr Devlin**  
OM163/14 That the report be received.

**CARRIED**

14.0 OFFICERS' REPORTS:

- 14.4 FINANCE & INFORMATION  
**MOVED** Cr Devlin      **SECONDED** Cr Rohde  
**OM164/14** That the report be received. **CARRIED**
- 14.4.1 Monthly Financial Report  
**MOVED** Cr Paparella      **SECONDED** Cr Hortin  
**OM165/14** That the monthly Financial Report be received. **CARRIED**
- 14.4.2 Community Assistance Fund Applications  
That based on the assessment against criteria contained in Council's Community Assistance Policy and reasons contained within this report, the following allocations from the Community Assistance Fund be made:
- OM166/14** **MOVED** Cr Stephens      **SECONDED** Cr Devlin  
1. Crystal Brook Patchwork and Quilters – In-kind assistance of \$450 towards the hire of the Crystal Institute on 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> April 2015. **CARRIED**
- OM167/14** **MOVED** Cr Chivell      **SECONDED** Cr Rohde  
2. Port Pirie Relay For Life – In-Kind assistance of \$1,750 towards the hire of Memorial Oval, lighting, rubbish collection and bunting for the Port Pirie Relay for Life event to be held on 21<sup>st</sup> and 22<sup>nd</sup> March 2015. **CARRIED**
- OM168/14** **MOVED** Cr Nayda      **SECONDED** Cr Chivell  
3. Crystal Brook Community Recreation Centre Inc – Monetary assistance of \$5,000 towards the administration costs associated with an extension to the Recreation Centre to include new toilets, changerooms, canteen, clubrooms and fitness centre. **CARRIED**
- Cr Nayda declared an interest in item 4, as a member of the Port Pirie Regional Gymnastics Academy and left the meeting at 9.45pm.*
- OM169/14** **MOVED:** Cr Hortin      **SECONDED:** Cr Devlin  
4. Port Pirie Regional Gymnastics Academy - Monetary assistance of \$5,000 towards the 2014 Port Pirie Gymnastics Invitational event to be held 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> October 2014. **CARRIED**
- Cr Nayda returned to the meeting at 9.46pm.*
- 14.5 INFRASTRUCTURE  
**MOVED** Cr Devlin      **SECONDED** Cr Stephens  
**OM170/14** That the report be received. **CARRIED**

15.0 NEXT MEETING: **Wednesday 27 August 2014 at 7.30pm.**

16.0 CLOSE: The meeting closed at 9.58pm.

---

MAYOR