



dorset
C O U N C I L

Minutes

Council Meeting – Derby Hall

20 March 2023

it's in the making

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Council Meeting Minutes 20 March 2023

Meeting Opened: 6:00 pm

Present: Councillors Greg Howard (Mayor), Dale Jessup (Deputy Mayor), Beth Donoghue, Edwina Powell, Kahlia Simmons, Mervyn Chilcott, Jerrod Nichols, Anna Coxen

General Manager: John Marik, Assistant General Manager/Director – Community & Development: Rohan Willis, Finance Manager: Allison Saunders

Apologies: Cr Leonie Stein

Item 30/23 Confirmation of Ordinary Council Meeting Minutes – 20 February 2023
Ref: DOC/23/1794

The Chair reported that he had viewed the minutes of the Ordinary Meeting held on Monday, 20 February 2023 finds them to be a true record and recommends that they be taken as read and signed as a correct record.

DECISION

MOVED: Cr Chilcott | **SECONDED:** Cr Simmons

That the Minutes of Proceedings of the Dorset Council Ordinary Meeting held on 20 February 2023 having been circulated to all Councillors, be confirmed as a true record.

CARRIED UNANIMOUSLY

Item 31/23 Confirmation of Agenda

DECISION

MOVED: Cr Nichols | **SECONDED:** Cr Powell

That Council confirm the Agenda and order of business for the 20 March 2023 Council Meeting.

CARRIED UNANIMOUSLY

Item 32/23 Declaration of an Interest of a Councillor or Close Associate

In accordance with Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015* and Council's adopted Code of Conduct, the Mayor requests Councillors to indicate whether they have, or are likely to have a pecuniary interest (any pecuniary interest or pecuniary detriment) or conflict of interest in any item on the Agenda.

INTEREST DECLARED

Cr Coxen Item 41 (*advised immaterial*)

Item 33/23 Management Team Briefing Report

The purpose of this agenda item is to provide Councillors and the community with a briefing on matters of interest dealt with during the past month by Council's Management Team.

DECISION

MOVED: Cr Jessup | **SECONDED:** Cr Donoghue

That the Management Team Briefing Report be received and noted.

CARRIED UNANIMOUSLY

Item 34/23 Council Workshops Held Since Last Council Meeting

28 February | Special Briefing Workshop

7 March | Briefing Workshop

Item 35/23 Councillor Applications for Leave of Absence

Nil

Item 36/23 Public Question Time

The following question was **taken on notice** from a member of the public at the 20 February Council Meeting:

Lin Simpson, Pioneer

Is the road that goes up around to the water lakes a private or public road?

Response from General Manager, John Marik:

All access roads around the Pioneer lakes are the responsibility of the Department of Natural Resources and Environment Tasmania (Crown Land), excluding Racecourse Road, which is Council owned and maintained.

The following questions were received without notice from members of the public:

Terry Smith, Derby

I have two questions in relation to the Cascade Dam Road. Most long term Derby locals would remember the Cascade Dam Road of just a few years ago, as a little travelled, peaceful country lane with almost no traffic and with the gravel and asphalt sections mostly maintenance free for many decades. Over the last seven or so years, my wife and I and others have observed and endured the abysmal and sad destruction and deterioration of the Council section of the road from the unregulated, the unruly, the disorganised, and the disproportional high numbers of vehicles that traverse and yo-yo their way up and down our property access road as part of their entertainment and adventure package. We have watched Council's knee jerk responses, the catchups and the band aid solutions to a problem of the Council's own creation in the destruction of the once almost costless municipal asset. With the announced and recent mid last winter supposed \$400,000 roadworks spend up, the road is now still just as nerve racking and dangerous to drive at times, but now much faster, much more loose and rockier, much more slippery, with much much more dust to deal with while to traveling on it. There is I believe, a further proposed \$400,000 from the State Government to be spent on the road as yet.

1. *Does Council have any estimate of the amount of Council work hours and public money it is prepared to throw at this ever problematic road safety exempt white elephant of a Council road?*

QUESTION TAKEN ON NOTICE

Without me referencing any feel good quotes from the Dorset Council's Policy 18 - Customer Service Charter

2. *Does this Council see a time when it's 'duty of care in road safety matters toward visitors, residents and ratepayers using the Cascade Dam Road will replace it's seemingly, long running attitude of 'turning a blind eye' to the chaos, having an 'out of sight out of mind' attitude to the ridiculous situation, and with a 'duty of don't care' attitude toward us residents in particular?*
3. *Does this Council see a time when the nonsense will be ceased and our Council access road to our homes will operate under normal road and traffic laws and be deemed as safe as other Council property access roads that other Dorset residents have the pleasurable and safe use of?*

Response from Mayor Greg Howard:

That's an opinion that you hold Terry. It will be an ongoing issue with \$400,000 spent to date and assuming that the State Government contribute their \$400,000 that will be available. It will get a yearly allocation for maintenance and improvements the same as a lot of other roads in the municipality.

What about the legalities of ordinary road use sir? They don't apply up there.

Response from Mayor Greg Howard:

I am pretty confident that Council are covering the legal liability.

Lin Simpson, Pioneer**

The question I asked at last month's meeting was misheard – it should state that who owns the road up to the water tank at Pioneer – can this please be reviewed and answered?

Response from Mayor Greg Howard:

Yes, Officers will investigate and respond accordingly.**

***The Executive Assistant apologised to Ms Simpson post the Council Meeting for mishearing her question from the Pioneer Council Meeting. Council Officers investigated the question asked and gave a response to her directly after the Council Meeting ceased.*

Vincent Teichmann, Pioneer

At the January Council Meeting, the Mayor Greg Howard said that it was my behaviour that stopped Council from giving me a letter of support and that unless my behaviour changed, I would not be receiving one. When asked about this at last month's Council Meeting, the Mayor stated that the reasons given by the former General Manager Tim Watson to me were the ones that are at issue. As only one of these reasons relates to my behaviour, specifically Tim's comments about my driving ability, this must be the behaviour you were referring to. Is that correct Mr Mayor?

Response from Mayor Greg Howard:

I don't remember what I said exactly, I would have to refer to the recording of the Meeting.

Well only one of the reasons given by Tim Watson, if you recall the February Council Meeting, relates to my behaviour. The others relate to the size of the Cascade Dam Road and its ability to cope with additional traffic and the amount of shuttle operators in Derby and an oversupply. Under what legislative powers do you, or anyone else at Dorset Council, feel authorised to make determinations about my driving ability when this is, as far as I understand it, of the Police and the courts? There has been no censure against me by either of those bodies in regards to my driving abilities. Do you realise without legislative powers, Council would clearly be at risk of acting 'ultra vires' which is a legal term for acting beyond its powers and is this a good look for a Council that is already under investigation?

Response from Mayor Greg Howard:

We had numerous complaints which was part of the basis for the refusal to provide a support letter. Council do not make the final decision as you are well aware, that is made by Crown Land.

Further Response from General Manager John Marik:

Putting the past aside, I've read the correspondence between yourself and the former General Manager and I have taken that into account so I have a bit of history. However, I have said this to you multiple times, I am trying to give you due process, give you procedural fairness by looking at it from all angles. The final discussion that I wanted to have was with Parks, which I have had. So they are providing some information to me in regards to the number of operators, which is being provided to Council on a confidential basis so that I can make an assessment based on whether I believe that there is a saturation of the market. I can't comment on your driving abilities but I can certainly make comment on whether I believe there are too many operators. What you have to understand, and what Parks have told me, is that they are the authority that legislate the numbers, make complaints in regards to unlicensed drivers, etc. Whether I, on behalf of Council give you a letter of recommendation, doesn't preclude you from still getting a licence. Parks would prefer to have a letter of support, however they have given out licences to others who don't have a recommendation.

Who has Council provided written letters of support for? The shuttle company I am working for has special CVS labels on his windshield which he tells me are a legal requirement for anyone to be accessing roads, and some shuttles in Derby such as Vertigo, UDA, nor any of the other operators that I am aware of are displaying these labels.

Response from General Manager John Marik:

Council have two letters of recommendation that have been located, however I can't provide those names to you due to confidentiality and privacy as advised by Parks and Wildlife. In regards to the CVS labels, if you have complaints about operators/drivers that is for Parks to handle, it's not Council's authority.

Terry Smith, Derby

I ask two questions in relation to the corporate credit cards. In light of the fact that the limits and limitations imposed for the use of corporate credit cards can be, and are known to be routinely fudged in the submitting and the processing of extra extracurricular and questionable expenses, I ask

1. *Can we, the public, be reassured by this administration that there will be appropriate and responsible accounting for public monies expended with the privileged use of this corporations credit cards?*

Response from Mayor Greg Howard:

Yes.

2. *If there is deliberate and coercive manipulation of those limitations, will this newly formed Council accept the safeguarding of public monies seriously enough so as to take appropriate action against any perpetrator?*

Response from Mayor Greg Howard:

In the past credit card statements have been audited internally and externally and there has been no issues raised.

Jo Ambrosi (property owner in Derby but reside on the mainland)

Is the waste management fee that was lumped on us in September still going ahead?

Response from Mayor Greg Howard:

It will be reviewed along with all other fees and charges in our upcoming budget process.

Is it going ahead this year as I was told by the former General Manager that it didn't have to be paid until May to see how the Bookeasy system, etc. was going, of which I am not on due to a number of reasons, but I haven't paid the charge due to this?

Response from Mayor Greg Howard:

Yes.

In regards to waste management, I've noticed that Nigel's Plumbing comes and empties all the on-site waste management systems in the area. When I costed companies to empty waste from my septic tank, this company was 15% more expensive than the local company. Is Council getting a good rate from this contractor?

QUESTION TAKEN ON NOTICE

Is anything being done about the effluent problem in the older bathrooms near the bike wash?

Response from Director, Community & Development, Rohan Willis:

Council Officers are investigating a new design at that location, so looking at the design of the existing system and what can be done to improve the situation.

This issue will be looked at prior to the new staff accommodation being undertaken in the same area?

Response from Director, Community & Development, Rohan Willis:

That is assessed as part of the plumbing process for the application.

In relation to upcoming Item 41 relating to the Blue Derby Transfer, I refer to Section 2 (a) in the MoU – Disclosure and Enforcement, it refers to Foundation employees, but further in the document it states that the Foundation is all volunteers. Can you clarify this please?

Response from Mayor Greg Howard:

There will be sufficient workload involved in management of the trails, sponsorships, etc. which will require some paid employment.

So who will hire those employees?

Response from Mayor Greg Howard:

The Foundation Board.

In relation to Section 4, it refers to the liaison with the General Manager's office, will you just delegate someone, is that correct?

Response from General Manager John Marik:

That is me.

In relation to the BD Operations Committee, the Board will decide the Committee, is that correct?

Response from General Manager John Marik:

That is correct.

So is the Project Officer a paid employee that the Board gets to pick?

Response from General Manager John Marik:

The Project Officer will be an employee of the Foundation.

The Foundation has a budget from the Council for a 3-month part time contract position to initiate fundraising works in the village, etc. That is the employee and Council will fund that (as outlined in Section 5)?

Response from General Manager John Marik:

As stated in the MoU, Council will have to provide some funding for 2023/24.

Can you clarify how long the funding will be for as listed in Section 5 the Draft MoU I received last week states a period of three years, however further on in the document it states 2024?

Response from General Manager John Marik:

That clause you refer to has been changed from the draft copy you have to 2024.

Is it the plan that the trail maintenance will go over to the Blue Derby Foundation completely?

Response from General Manager John Marik:

Not at this stage.

Item 37/23 Deputations

Nil

Item 38/23 Councillor Question Time

The following questions were received without notice from Councillors:

Councillor Anna Coxen:

In the audio of last meeting, Mayor Howard stated that in the risk calculation for the Derby trails fire probably wouldn't be picked up. I find this quite confusing. Although the probability is probably low for a fire, the consequence not just for human life but for infrastructure and the environment would be catastrophic on a risk matrix, which in my experience would warrant mitigation. Can we have a copy of this risk management plan please?

Response from Mayor Greg Howard:

The fire management plan would be part of the agreement Council are trying to negotiate as part of the proposed Derby Concept Plan with Sustainable Timber Tasmania (STT) and Parks as Council don't have any of our own firefighting capacity. That fire-fighting capacity would be supplied by STT or by Parks. There is no doubt that there will be issues outlined about this.

My question is what Council has done to mitigate risk. What have we done to ensure that in the event of a fire, that protocols are engaged to protect people and infrastructure?

Response from Director, Community & Development, Rohan Willis:

There is an emergency management plan that has been prepared by Council in conjunction with the State Emergency Service and Tas Fire Service. There are a number of management steps outlined as part of that plan and I am more than happy to make that available to Councillors.

Councillor Kahlia Simmons

In relation to public toilets in Victoria Street. Are there any planned in the future?

Response from Mayor Greg Howard:

Council's issue is that we don't own any land in the street. Council have been liaising with property owners in the area to come to an agreement to potentially purchase/lease some land to construct toilets on, however, nothing has come to fruition to this point in time.

Councillor Anna Coxen:

On page 8 of the minutes from last meeting, John Marik makes a statement that we need to make sure that we don't have so many shuttle bus operators that we make all businesses unviable. This statement was made in response to Mr Teichmann's question. What are the criteria and framework for determining whether a business operates with a letter of support?

Response from General Manager John Marik:

That is part of the issue – there isn't any and that's what needs to be developed.

In the MoU which is coming up for debate in Item 41 this evening, it talks about handing over the responsibility to create those policies and frameworks to the Foundation, which I personally feel is back to front. Council should have these policies and procedures established and then we hand them over, if that's what we do, to the Foundation and they can use these documents. Why are we handing over without establishing that policy first?

Response from General Manager John Marik:

You can either have one General Manager and possibly 1-2 staff members coming up with policies that impact the whole town, or you have a skills based Board, and a body of volunteers behind that and an employee, that understand the product, that have a lot more knowledge than I have to come up with these documents and create a framework.

How can we regulate how many buses a shuttle company has and does the letter of support have any parameters around how many buses they can have?

Response from General Manager John Marik:

As explained earlier, that's Parks and no, there is no limit on buses required in the letter of support.

What happens if a decision is made by the Foundation that is in conflict with the Dorset Council Strategic Plan?

Response from General Manager John Marik:

Ultimately you have to have willingness and communication from both parties. Council are still the land manager, it is our product, and there is a possible veto there. It is written into the MoU especially where there is sponsorships that are in place, that assist Council where we have the ability to veto our working committee to ensure that those things stay in place.

Further Response from Mayor Greg Howard:

The Strategic Plan is not set in stone, it is a fluid document which can be reviewed whenever Council wants to.

Councillor Beth Donoghue:

In relation to the Foundation Board, what assurance has Council got that there is a cross-section of Board members that fit with the skills and expertise of Clause 38?

Response from General Manager John Marik:

I have had assurance from the Board, yes.

Is there an assurance that it is not skewed towards perhaps just business owners, that there is a cross section of people with expertise as far as governance?

Response from General Manager John Marik:

I believe there is governance experience on the Board.

Councillor Anna Coxen:

*In the MoU which is effectively a gentleman's agreement as it is not legally enforceable, what is the clause, which I haven't been able to find – and that's not saying it's not in there – that states that any money raised goes directly towards maintaining the trails?**

***This question was taken on notice with an answer to be provided during Item 41 discussion.*

Item 39/23 Notices of Motion by Councillors

Nil

Item 40/23 Corporate Credit Card Policy No.17 Review
Reporting Officer: Finance Manager, Allison Saunders
Ref: DOC/23/3077 | Reviewed Policy: DOC/23/2660

Purpose

The purpose of this agenda item is to adopt the revised Corporate Credit Card Policy No. 17.

Recommendation

That Council adopt the attached revised Corporate Credit Card Policy No.17.

DECISION

MOVED: Cr Jessup | SECONDED: Cr Coxen

That Council adopt the attached revised Corporate Credit Card Policy No.17.

CARRIED UNANIMOUSLY

***Councillor Coxen declared an interest in Item 41, however stated it was immaterial and did not leave the Meeting.*

Item 41/23 Blue Derby Operations Transfer – Memorandum of Understanding
Reporting Officer: General Manager, John Marik
Ref: DOC/23/3107 | MoU and Deed of Assignment: DOC/23/3186 | Constitution: DOC/20/1449

Purpose

The purpose of this agenda item is for Council to endorse the attached Memorandum of Understanding and Deed of Assignment, formalising the transfer of Blue Derby operations from Council to the Blue Derby Foundation.

Recommendation

That Council endorse the attached Memorandum of Understanding and Deed of Assignment, formalising the transfer of Blue Derby operations from Dorset Council to the Blue Derby Foundation.

DECISION

MOVED: Cr Nichols | SECONDED: Cr Chilcott

That Council endorse the attached Memorandum of Understanding and Deed of Assignment, formalising the transfer of Blue Derby operations from Dorset Council to the Blue Derby Foundation.

Voting for the Motion: Crs Howard, Jessup, Powell, Simmons, Chilcott, Nichols

Voting Against the Motion: Cr Coxen

Abstained from Vote: Cr Donoghue

CARRIED

Time Meeting Closed: 7:28pm

Minutes Confirmed: 24 April 2023

Minute No: 42/23



Mayor