

Special Council Meeting Minutes

22 March 2023

Our Vision

*A City which values its heritage, cultural diversity,
sense of place and natural environment.*

*A progressive City which is prosperous, sustainable
and socially cohesive, with a strong community spirit.*

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City of
Norwood
Payneham
& St Peters

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VENUE Council Chambers, Norwood Town Hall

HOUR 7.00pm

PRESENT

Council Members Mayor Robert Bria
Cr Kester Moorhouse
Cr Claire Clutterham
Cr Garry Knoblauch
Cr Hugh Holfeld
Cr Josh Robinson
Cr Kevin Duke
Cr Victoria McFarlane (entered the meeting at 7.18pm)
Cr Grant Piggott
Cr Sue Whittington
Cr John Callisto
Cr Scott Sims

Staff Mario Barone (Chief Executive Officer)
Lisa Mara (General Manager, Governance & Civic Affairs)
Skye Grinter-Falzun (Manager, Chief Executive's Office)
Teri Hopkins (Manager, Governance & Legal)
Simonne Whitlock (Manager, Communications & Community Relations)
Keke Michalos (Manager, Economic Development & Strategy)
Marina Fischetti (Executive Assistant, Governance & Civic Affairs)

APOLOGIES Cr Christel Mex, Cr Connie Granozio

ABSENT Nil

1. CONFIRMATION OF THE MINUTES OF THE COUNCIL MEETING HELD ON 6 MARCH 2023

Cr Holfeld moved that the minutes of the Council meeting held on 6 March 2023 be taken as read and confirmed. Seconded by Cr Whittington and carried unanimously.

2. STAFF REPORTS

2.1 REINSTATEMENT OF OFFICE – WARD COUNCILLOR FOR THE MAYLANDS/TRINITY WARD - CR SCOTT SIMS

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA115010
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the reinstatement of Cr Scott Sims to the Office of Councillor for the Maylands/Trinity Ward.

BACKGROUND

As Elected Members will recall, at the Council Meeting held on 6 March 2023, the Council was advised that Cr Scott Sims had lost his office as Ward Councillor for the Maylands/Trinity Ward, on the basis that he had failed to lodge his Campaign Donation Return by the due date with the Electoral Commission of South Australia (ECSA).

As Members are aware, as part of the Election process, all Candidates, (including those Candidates who were elected and those Candidates who were not elected), must complete and lodge two (2) Campaign Donation Returns forms with ECSA in accordance with Section 81 of the *Local Government (Elections) Act 1999*.

A total of 45 Elected Members (including some Mayors), lost office as result of their failure to lodge their second Campaign Donation Return with ECSA by the due date.

DISCUSSION

On 22 February 2023, the Minister for Local Government, the Hon Geoff Brock, announced that legislation would be introduced into Parliament to provide those former Elected Members with an additional ten (10) days to submit their Returns.

The Minister, in a media release issued on 27 February 2023, stated that the decision to introduce legislation to address the matter was made on the basis of the “*unprecedented scale of the issue*” and the subsequent financial impact for Councils and their communities who would be responsible for the costs associated with addressing the vacancies (ie holding supplementary elections).

The *Local Government (Casual Vacancies) Amendment Act 2023* (the Amendment Act) came into operation on 9 March 2023. The Amendment Act provides for the reinstatement of Council Members whose positions had become vacant and allows additional time for the lodgement of Campaign Donation Returns by those Council Members who have not yet lodged their Return with ECSA.

The Amendment Act also includes amendments to the *Local Government Act 1999*, to ensure the validity of the Council decisions which have been made during the period of the vacancies. The Amendment Act also ensures the validity of functions and duties undertaken by defaulting Elected Members during their period of vacancy and clarifies the entitlement to allowances and expenses during this period.

Essentially, the effect of the Amendment Act is to provide that the office occupied by the former Council Members are taken to have never been vacant.

On 9 March 2023, the Electoral Commissioner of South Australia forwarded a letter to the Council’s Chief Executive Officer, confirming that Cr Scott Sims has lodged the required Campaign Donations Returns and as such, has been reinstated to the Office of Ward Councillor for the Maylands/Trinity Ward.

A copy of the letter dated 9 March 2023, from the Electoral Commissioner of South Australia is contained within **Attachment A**.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

RECOMMENDATION

1. That the Council notes that the *Local Government (Casual Vacancies) Amendment Act 2023*, commenced operation on 9 March 2023; and
 2. That the Council notes that the effect of the *Local Government (Casual Vacancies) Amendment Act 2023*, is to provide that the office occupied by Cr Scott Sims is taken not to be and to have never have been, vacant as a result of the ordinary operation of Section 54(1)(h) of the *Local Government Act 1999*.
-

Cr Sims moved:

1. *That the Council notes that the Local Government (Casual Vacancies) Amendment Act 2023, commenced operation on 9 March 2023; and*
2. *That the Council notes that the effect of the Local Government (Casual Vacancies) Amendment Act 2023, is to provide that the office occupied by Cr Scott Sims is taken not to be and to have never have been, vacant as a result of the ordinary operation of Section 54(1)(h) of the Local Government Act 1999.*
3. *That the Council notes that Cr Sims has advised he prepared a Statutory Declaration, stating that the required form was posted within the legal time frame on 31st December 2022.*

Seconded by Cr Robinson and carried unanimously.

3. CONFIDENTIAL REPORTS

3.1 AUDIT & RISK COMMITTEE – APPOINTMENT OF INDEPENDENT MEMBERS

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999* the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) information, the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

Under Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that the report and attachments be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Under Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that the discussion and minutes be kept confidential until the announcement of the appointment is made.

Cr Duke moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Civic Affairs, Manager, Chief Executive's Office, Manager, Governance & Legal, Manager, Communications & Community Relations, Manager, Economic Development & Strategy and Executive Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) information, the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Knoblauch and carried unanimously.

Mayor Bria sought leave of the meeting to make a Personal Explanation in relation to this matter.

The meeting granted leave for Mayor Bria to make a Personal Explanation.

Cr Duke moved:

That Mayor Bria's Personal Explanation be recorded in the minutes in its entirety.

Seconded by Cr Whittington and carried unanimously.

Mayor Bria declared a general conflict of interest in this matter and left the meeting at 7.06pm.

Appointment of Acting Mayor

At 7.07pm Cr Callisto moved:

That Cr Kevin Duke be appointed Acting Mayor.

Seconded by Cr Whittington and carried unanimously.

Cr Duke assumed the Chair.

Cr Callisto moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report and attachments be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the discussion and minutes be kept confidential until the announcement of the appointment is made.

Seconded by Cr Piggott and carried unanimously.

Cr Sims left the meeting at 7.10pm.

Cr Sims returned to the meeting at 7.10pm.

Resumption of Chair

Mayor Bria returned to the meeting at 7.10pm and resumed the Chair.

3.2 APPOINTMENTS TO THE BUSINESS & ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999* the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- a. Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)

and the Council is satisfied that, in principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussions/consideration of the information confidential.

RECOMMENDATION 2

Under Section 91(7) and (9) of the *Local Government Act 1999*, the Council orders that the report, attachments and discussion be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Under Section 91(7) and (9) of the *Local Government Act 1999*, the Council orders that the minutes be kept confidential until the announcement in respect to the positions of Independent Members of the Business & Economic Development Advisory Committee is made.

Cr Knoblauch moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Civic Affairs, Manager, Chief Executive's Office, Manager, Governance & Legal, Manager, Communications & Community Relations, Manager, Economic Development & Strategy and Executive Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- a. *Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)*

and the Council is satisfied that, in principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussions/consideration of the information confidential.

Seconded by Cr Callisto and carried unanimously.

Cr Clutterham declared a material conflict of interest in this matter and left the meeting at 7.11pm.

Cr Callisto moved:

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the report, attachments and discussion be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the minutes be kept confidential until the announcement in respect to the positions of Independent Members of the Business & Economic Development Advisory Committee is made.

Seconded by Cr Holfeld and carried unanimously.

Cr Clutterham returned to the meeting at 7.15pm.

3.3 COUNCIL RELATED MATTER

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999*, the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

Under Section 91(7) and (9) of the *Local Government Act 1999*, the Council orders that the report, discussion and minutes be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Cr Duke moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999, the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Civic Affairs, Manager, Chief Executive's Office, Manager, Governance & Legal, Manager, Communications & Community Relations and Executive Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Knoblauch and carried unanimously.

Cr McFarlane entered the meeting at 7.18pm.

Cr Piggott moved:

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the report, discussion and minutes be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Seconded by Cr Holfeld and carried unanimously.

4. CLOSURE

There being no further business, the Mayor declared the meeting closed at 7.36pm.

Mayor Robert Bria

Minutes Confirmed on _____
(date)