
ORANGE CITY COUNCIL

MINUTES OF THE

ORDINARY COUNCIL MEETING

HELD IN COUNCIL CHAMBER, CIVIC CENTRE, BYNG STREET, ORANGE

ON 3 MARCH 2022

COMMENCING AT 7.00PM

1 INTRODUCTION

ATTENDANCE

Cr J Hamling (Mayor), Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power (Deputy Mayor), Cr J Whitton

Chief Executive Officer, Director Corporate and Commercial Services, Director Development Services, Director Community, Recreation and Cultural Services, A/Director Technical Services (Gailey), A/Manager Corporate Governance, Administration Officer Governance

1.1 APOLOGIES

Nil

1.2 LIVESTREAMING AND RECORDING

The Mayor advised that the meeting was being livestreamed and recorded.

1.3 OPENING PRAYER

Khalid Tufail of the NSW Regional Islamic Centre led the Council in prayer.

1.4 ACKNOWLEDGEMENT OF COUNTRY

The Mayor conducted an Acknowledgement of Country.

1.5 DECLARATION OF PECUNIARY INTERESTS, SIGNIFICANT NON-PECUNIARY INTERESTS AND LESS THAN SIGNIFICANT NON-PECUNIARY INTERESTS

Cr Duffy declared a non-significant, non-pecuniary interest in IPC Item 2.1 – Extraordinary – City of Orange Traffic Committee as he is an employee of Orange Bus Lines and will remain in the Chamber and will vote on this item.

Cr Hamling declared a non-significant, non-pecuniary interest in Item 5.4 Leave of Absence as it is he who is requiring the resolution to take leave and will remain in the Chamber and will not vote on this item.

Cr Hamling declared a non-significant, non-pecuniary interest in IPC Item 2.1 – Extraordinary – City of Orange Traffic Committee as he is an employee of Orange High School and will remain in the Chamber and will not vote on this item.

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL ADJOURNED FOR THE CONDUCT OF THE OPEN FORUM AT 7.04pm.

Amber Gunn – PDC Agenda Item 2.2 DA 507/2021(1) – 314 Anson Street - Against
Geoff Metcalfe - PDC Agenda Item 2.2 DA 507/2021(1) – 314 Anson Street – For – wants to defer this item to allow Councillors to inspect the proposed development

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL RESUMED AT 7.12pm.

THE MAYOR PRESENTED COUNCIL WITH A GIANTS NETBALL TEAM BIB THAT WAS PRESENTED TO THE CITY DURING THEIR RECENT VISIT TO ORANGE.

THE MAYOR COMMENTED ON THE LGNSW CONFERENCE WHICH WAS HELD IN SYDNEY THIS WEEK AND BELIEVED A LOT OF KNOWLEDGE WAS GAINED BY THE 7 COUNCILLORS THAT ATTENDED. A REPORT WILL COME BACK TO COUNCIL.

CR WHITTON COMMENTED THAT 50% OF ATTENDANCE AT THE LGNSW CONFERENCE WAS NEW COUNCILLORS AND NEW MAYORS.

CR GREENHALGH COMMENTED THAT THE KNOWLEDGE GAINED WAS PRICELESS.

CR POWER COMMENTED THAT IT WAS VALUABLE TO LEARN ABOUT WHERE OTHER NSW COUNCILS ARE HEADING. THE AMOUNT OF INDIGENOUS COUNCILLORS THAT WERE PRESENT WAS ENCOURAGING.

CR DUFFY ACKNOWLEDGED THAT OUR PREVIOUS MAYOR CR KIDD RECEIVED RECOGNITION FOR HIS YEARS OF SERVICE AT THE CONFERENCE.

2 MAYORAL MINUTES

Nil

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED - 22/034**Cr J Whitton/Cr M McDonell**

That the Minutes of the Ordinary Meeting of Orange City Council held on 15 February 2022 (copies of which were circulated to all members) be and are hereby confirmed as a true and accurate record of the proceedings of the Council meeting held on 15 February 2022.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power , Cr J Whitton

Against: Nil

Absent: Nil

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL ADJOURNED FOR THE CONDUCT OF THE POLICY COMMITTEE MEETINGS AT 7.18pm.

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL RESUMED AT 7.36pm.

4 NOTICES OF MOTION/NOTICES OF RESCISSION**4.1 NOTICE OF MOTION - DYLAN ALCOTT**

TRIM REFERENCE: 2022/231

RESOLVED - 22/041**Cr S Peterson/Cr T Greenhalgh**

That Dylan Alcott OAM be invited to attend a community event within Orange.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power , Cr J Whitton

Against: Nil

Absent: Nil

5 GENERAL REPORTS**5.1 REALLOCATION OF FUNDING FOR CRICKET FIELD OF PLAY FENCING**

TRIM REFERENCE: 2021/2682

RESOLVED - 22/042**Cr J Hamling/Cr K Duffy**

That funding for installation of a picket fence at the Spring Hill Recreation Ground be reallocated to installation of a picket fence at Riawena Oval.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power , Cr J Whitton

Against: Nil

Absent: Nil

Cr Duffy asked if Council could get clarification on whether or not the Spring Hill Association received funding to go towards their cricket field

The Director Community Recreation and Cultural Services responded by saying yes that is my understanding, the Local Member announced this just before Christmas

Cr Mileto asked the question were the quotes for Riawena Oval \$100,000.

The Director Community Recreation and Cultural Services said that the contractor had already been engaged for the Spring Hill fence and was asked to look to see if there were any additional costs and then confirmed there would be no additional costs. Yes the quote remained at \$100,000.

Cr Kinghorne asked how was the Spring Hill Committee and Orange City Council on such different wavelengths, we are supposed to be engaging with them, I don't understand how it could have been resolved this way.

The Chief Executive Officer responded by saying that he would circulate further information on this to Councillors

Cr Kinghorne asked is the successful tenderer local

The Director Community Recreation and Cultural Services responded yes they are local

Cr Mileto asked about the internment wall at Spring Hill, when will it be finished and when can people add to this wall

The Director Community Recreation and Cultural Services responded saying that Council was currently going through the mechanics and it will be completed in the near future

5.2 POLICY COMMITTEE DRAFT CHARTERS

TRIM REFERENCE: 2022/176

RESOLVED - 22/043

Cr J Whitton/Cr D Mallard

That Council adopt the Charters for each Policy Committee consisting of Planning and Development, Employment and Economic Development, Environmental Sustainability, Sport and Recreation, Infrastructure, Finance and Services.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

5.3 COMMUNITY COMMITTEE DRAFT CHARTERS

TRIM REFERENCE: 2022/216

RESOLVED - 22/044

Cr J Whitton/Cr M McDonell

That Council adopt the Charters for each of the Community Committees as resolved on the 15 February 2022 Council meeting.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against:

Absent:

Cr Mileto pointed out that the Economic Development Community Committee Draft Charter listed these meetings would occur bi-monthly when it should state 'monthly' as this is the frequency at which these meetings have historically been held

The Director Corporate and Commercial Services commented that when the Draft Charter goes to the Committee they can resubmit it with this change

Cr Mallard asked the question about maximum numbers of community members on each community committee – all charters specify a maximum number of community reps, at least one had many more people express interest. Can we alter this.

The Chief Executive Officer commented that tonight is about discussing this matter, unlimited or limited numbers we can decide tonight

Cr Peterson asked if there are lots of people on the committee that do not show up, does this affect the quorum

The Chief Executive Officer commented that yes it could well affect the quorum

Cr Greenhalgh asked have we turned people away from these committees previously

The Chief Executive Officer responded by saying yes, a person represented a particular political group which we did not see as being beneficial to the Committee involved

MATTER ARISING**Cr J Hamling**

That Councillors be briefed on the number of Expressions of Interest received for each Community Committee through a Councillor Briefing session prior to Committee Charters going to each Community Committee.

5.4 LEAVE OF ABSENCE

TRIM REFERENCE: 2022/240

Cr Hamling declared a non-significant, non-pecuniary interest in this Item as it is he who is requiring the resolution to take leave and will remain in the Chamber and will not vote on this item.

RESOLVED - 22/045**Cr J Whitton/Cr F Kinghorne**

That Leave of Absence be granted for the Mayor, Cr Jason Hamling for the Meeting of Council to be held Tuesday 19 April 2022.

For: Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne,
Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power , Cr J Whitton
Against: Nil

Absent: Cr J Hamling

6 CLOSED MEETING

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

In response to a question from the Mayor, the Chief Executive Officer advised that no written submissions had been received relating to any item listed for consideration by the Closed Meeting of Council.

The Mayor extended an invitation to any member of the public present at the meeting to make a presentation to the Council as to whether the meeting should be closed for a particular item.

RESOLVED - 22/046**Cr J Whitton/Cr K Duffy**

That Council adjourn into a Closed Meeting and members of the press and public be excluded from the Closed Meeting, and access to the correspondence and reports relating to the items considered during the course of the Closed Meeting be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

6.1 Submission Redactions February 2022

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (e) information that would, if disclosed, prejudice the maintenance of law.

6.2 Electricity Procurement

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (d)ii information that would, if disclosed, confer a commercial advantage on a competitor of the council and (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Information contained in this paper is subject to legal professional privilege and is strictly confidential. Any disclosure of this paper, including a verbal disclosure of its content or conclusions, beyond Council officers directly involved in this matter may result in the loss of legal professional privilege and cause damage to the Council's legal and financial position. Councillors have a good faith duty to strictly maintain confidentiality of privileged communications, and any failure to do so may result in a penalty under section 664 of the Local Government Act 1993 and action under the Code of Conduct.

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL ADJOURNED FOR THE CONDUCT OF THE CLOSED MEETING AT 7.55PM.

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL RESUMED AT 8.34PM.

7 RESOLUTIONS FROM CLOSED MEETING

The Chief Executive Officer read out the following resolutions made in the Closed Meeting of Council.

6.1 SUBMISSION REDACTIONS FEBRUARY 2022

TRIM REFERENCE: 2022/175

RESOLVED - 22/047**Cr K Duffy/Cr D Mallard**

That the information in this report be acknowledged.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

6.2 ELECTRICITY PROCUREMENT

TRIM REFERENCE: 2022/236

MOTION

That Council

1. Note the report on electricity procurement;
2. Note that a reduced tender period has been considered;
3. Resolve that because of the extenuating circumstances set out in the report a satisfactory result would not be achieved by inviting tenders for the aggregated procurement of electricity for large market sites and streetlighting which are due to commence on 1 January 2023;
4. Note that the reasons for the decision of the Council in resolution 3 are as follows:
 - a. The services with respect to which the tender relates can only be provided by energy retailers.
 - b. Council has received expert advice that due to the nature of the relevant market, offers from those retailers which will be made in response to the request for tender will only be open for acceptance for a period of 1-2 weeks.
 - c. Even if the tender period was shortened to 7 days as permitted under the Regulations, some if not all of the relevant tenders would expire prior to Council being able to undertake an assessment of tenders, report the matter to Council and resolve to accept or reject any tenders.
 - d. This would result in Council either having no valid tenders which it is able to accept, or it would not be able to consider for acceptance all of the tenders lodged in response to the request for tender.
 - e. This would not be a satisfactory result for Council.
5. Delegate the authority to execute the contracts for the supply of electricity for large market sites and streetlighting to the Chief Executive Officer; and
6. Advise Central NSW Joint Organisation of Council's decision.

AMENDMENT**Cr D Mallard/Cr M McDonell**

That the motion be amended by inserting an additional point 7:

1. Makes representations to the Central NSW Joint Organisation that the procurement process should exclude seeking to enter into a power purchase agreement with any provider involved in new projects for coal, gas or oil extraction or energy generation, for example Origin Energy, which continues to seek to expand its gas and oil exploration, production and fracking in areas such as the Northern Territory's Beetaloo Basin, Queensland's channel country and Western Australia's Canning Basin.

For: Cr D Mallard, Cr M McDonell, Cr G Power

Against: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr T Mileto, Cr S Peterson, Cr J Whitton

Absent: Nil

THE AMENDMENT ON BEING PUT TO THE MEETING WAS LOST**RESOLVED - 22/048****Cr J Whitton/Cr T Greenhalgh**

That Council

1. Note the report on electricity procurement;
2. Note that a reduced tender period has been considered;
3. Resolve that because of the extenuating circumstances set out in the report a satisfactory result would not be achieved by inviting tenders for the aggregated procurement of electricity for large market sites and streetlighting which are due to commence on 1 January 2023;
4. Note that the reasons for the decision of the Council in resolution 3 are as follows:
 - a. The services with respect to which the tender relates can only be provided by energy retailers.
 - b. Council has received expert advice that due to the nature of the relevant market, offers from those retailers which will be made in response to the request for tender will only be open for acceptance for a period of 1-2 weeks.
 - c. Even if the tender period was shortened to 7 days as permitted under the Regulations, some if not all of the relevant tenders would expire prior to Council being able to undertake an assessment of tenders, report the matter to Council and resolve to accept or reject any tenders.
 - d. This would result in Council either having no valid tenders which it is able to accept, or it would not be able to consider for acceptance all of the tenders lodged in response to the request for tender.
 - e. This would not be a satisfactory result for Council.
5. Delegate the authority to execute the contracts for the supply of electricity for large market sites and streetlighting to the Chief Executive Officer; and
6. Advise Central NSW Joint Organisation of Council's decision.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power , Cr J Whitton

Against: Nil

Absent: Nil

Cr Peterson sought background on the motion regarding whether decisions in the future would need to be made together with the other councils or if Orange City Council could do things independently.

The Chief Executive Officer advised the last council and the councils involved resolved to go to market as a collective and ask for a 50% renewable electricity in the next contract we buy (January next year). The Chief Executive Officer confirmed that we are in the process of this procurement now. This motion is effectively Councillors giving me (CEO) the delegation to make quick decisions when we go to market, which will be happening in the next month or two. Collectively we are looking at the energy load in all the councils, compiling the information and going to the electricity market and saying we want 50% renewable, we will take 50% other and you give us your best price. In the months ahead when we start that process trying to obtain the tenders to take to council to get a resolution is going to take too long and we risk losing the good price.

Cr Peterson asked that if you make the decision for Orange does that mean the other councils involved will also have their CEOs make the decision for their respective councils, is there a risk they may decide not to do it.

The Chief Executive Officer advised when we first started it was agreed that I cannot do anything to adversely affect the current price. The target here is 50% renewable on our purchase.

Cr Whitton asked whether, based on the solicitor's report, if there are potential issues of collusion regarding the ICAC statements

The Chief Executive Officer responded by saying no, we are just being very careful about how the process is being run by having a solicitor oversee every step to ensure compliance.

Cr Mileto asked what the difference will be cost wise.

The Chief Executive Officer advised it is expected to be the same or less.

RESOLVED - 22/049

Cr J Whitton/Cr J Evans

That Council move back into Open Council Meeting.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power , Cr J Whitton

Against: Nil

Absent: Nil

THE MEETING CLOSED AT 8.38PM.

This is Page Number 10 and the Final Page of the Minutes of the Ordinary Meeting of Orange City Council held on 3 March 2022.