



UNCONFIRMED MINUTES
OF THE SPECIAL MEETING
OF COUNCIL
HELD ON
23 SEPTEMBER 2013
AT 5:30pm

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Unconfirmed Minutes of the Special Meeting of the Yalgoo Shire Council,
held in the Council Chambers, 37 Gibbons Street, Yalgoo,
on 23 September 2013, commencing at 5.30pm.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Terry Iturbide, Shire President, declared the Special Meeting open at 5:44pm.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

MEMBERS	Cr Terry K Iturbide, Shire President Cr M Raul Valenzuela, Deputy Shire President Cr Laurence Hodder Cr Neil A Grinham Cr Stanley Willock
STAFF	Sharon Daishe, CEO
GUESTS	
OBSERVERS	
LEAVE OF ABSENCE	
APOLOGIES	Cr Robert Grinham

3. DISCLOSURE OF INTERESTS

Disclosures of interest made before the Meeting

4. PUBLIC QUESTION TIME

4.0 RESPONSE TO QUESTIONS TAKEN ON NOTICE

4.1 QUESTIONS WITHOUT NOTICE

5. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Item 7.1 Consideration of a matter affecting an employee 5.23 (2) (a)

6. BUSINESS AS NOTIFIED

6.0 Purpose of Meeting

The purpose of the Special Meeting is to consider a matter affecting an employee.

7. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

7.0 STATUTORY ENVIRONMENT – MEETING CLOSED TO THE PUBLIC

Councillors are obliged to maintain the confidentiality of matters discussed when the meeting is closed. Fines of up to \$10,000 or two years imprisonment apply to certain offences relating to misuse of information.

The following legislative extracts were downloaded from www.auslii.edu.au on 8 November 2010.

Local Government Act 1995

5.23. Meetings generally open to the public

(1) Subject to subsection (2), the following are to be open to members of the public —

- (a) all council meetings; and
- (b) all meetings of any committee to which a local government power or duty has been delegated.

(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

- (a) a matter affecting an employee or employees;
- (b) the personal affairs of any person;
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
- (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;

- (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government’s property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971* ; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

5.92. Access to information by council, committee members

- (1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.
- (2) Without limiting subsection (1), a council member can have access to —
- (a) all written contracts entered into by the local government; and
 - (b) all documents relating to written contracts proposed to be entered into by the local government.

5.93. Improper use of information

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

- (a) to gain directly or indirectly an advantage for the person or any other person; or
- (b) to cause detriment to the local government or any other person.

Penalty: \$10 000 or imprisonment for 2 years.

Local Government (Rules of Conduct) Regulations 2007

6. Use of information

- (1) In this regulation —
- closed meeting** means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
- confidential document** means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;
- non-confidential document** means a document that is not a confidential document.
- (2) A person who is a council member must not disclose —
- (a) information that the council member derived from a confidential document; or
 - (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —
- (a) at a closed meeting; or

- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

7.1 Consideration of a matter affecting an employee 5.23 (2) (a)

Motion to Close the Meeting to the Public

Voting Requirements - Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

S2013-09b01 Close Meeting to the Public

That the meeting be closed to the public to discuss a matter affecting an employee (*LGA s. 5.23 (2) (a)*).

Moved: Cr NA Grinham

Seconded: Cr SK Willock

Motion put and carried 5/0

The meeting was closed to the public at 5:44pm.

Remaining in the meeting were all who were in attendance before the closure.

Attendance: At 5:45pm Jenni Law, Manager Advice and Support, Department of Local Government and Communities, joined the meeting by telephone on speaker.

At 6:05pm Jenni Law departed the meeting.

Motion to Open the Meeting to the Public

Voting Requirements - Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

S2013-09b02 Open Meeting to the Public

That the meeting be re-opened to the public.

Moved: Cr SK Willock

Seconded: Cr NA Grinham

Motion put and carried 5/0

The meeting was reopened to the public at 6:30pm.

Legislative Environment

5.37. Senior employees

(1) A local government may designate employees or persons belonging to a class of employee to be senior employees.

(2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

S2013-09b03 Termination of Employment of the Executive Manager Works and Infrastructure, Being a Position Designated Senior Under s.5.37 (2) of the Local Government Act 1995

That Council in accordance with s 5.37 (2) of the Local Government Act 1995 accept the CEO's recommendation to dismiss the Executive Manager Works and Infrastructure.

Moved: Cr SK Willock

Seconded: Cr NA Grinham

Motion put and carried 5/0

Motion to Close the Meeting to the Public

Voting Requirements - Simple Majority

NEW MOTION/COUNCIL DECISION

S2013-09b04 Close Meeting to the Public

That the meeting be closed to the public to discuss a matter a matter that if disclosed, could be reasonably expected to impair the effectiveness of any lawful method or procedure for investigating a possible contravention of the law (LGA s. 5.23 (2) (f) (i)).

Moved: Cr MR Valenzuela

Seconded: Cr SK Willock

Motion put and carried 5/0

The meeting was closed to the public at 6:35 pm.

Remaining in the meeting were all who were in attendance before the closure.

Motion to Open the Meeting to the Public

Voting Requirements - Simple Majority

NEW MOTION/COUNCIL DECISION

S2013-09b05 Open Meeting to the Public

That the meeting be re-opened to the public.

Moved: Cr SK Willock

Seconded: Cr NA Grinham

Motion put and carried 5/0

The meeting was reopened to the public at 6:41 pm.

8. MEETING CLOSURE

There being no further business, President Terry Iturbide declared the meeting closed at 6:42pm.

DECLARATION

These minutes were confirmed by Council at the Ordinary Meeting held on _____.

Signed: _____
Person presiding at the meeting at which these minutes were confirmed