

ANNUAL GENERAL MEETING - 8 NOVEMBER 2021 ATTACHMENTS

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**Minutes of the Annual General Meeting of the Devonport City Council
held on Monday, 9 November 2020, in the convention centre, level 3, paranapple centre,
137 Rooke Street Devonport, and live streamed from 5:30pm**

PRESENT:

Councillors:

Cr A Rockliff (Mayor)
Cr A Jarman (Deputy Mayor)
Cr J Alexiou
Cr G Ennis
Cr P Hollister
Cr L Laycock
Cr S Millbourne
Cr L Murphy
Cr L Perry

Council Officers:

General Manager, M Atkins
Deputy General Manager, J Griffith
Executive Manager People & Finance, K Peebles
Executive Manager City Growth, M Skirving
Executive Coordinator, J Surtees
Community Services Manager, K Hampton

Electors:

Steve Martin	Malcolm Gardam	Rodney Russell	Eric Mobbs
Robert Vellacott	Graham Jones	Chris Murfett	Anne Murfett
Prue Febey	Robert Foulkes	Rod Bramich	Lyn Johnson
Peter Jordan	Sue Jordan	Janette Lander	Bill Lander
Jan Grey	Robyn Glen	Paul Fielding	Louise Leslie
Ian McLeod	Faye Foster	Grant Goodwin	Robyn Carey
Peter Stegmann	Trevor Smith	Mark Bakowski	Jennie Claire
Don Willing	Graeme Nevin	Lindy Nevin	Alana Jackson
Greg Marshall	Margaret Faye	Sally Easter	Gary Easter
Pauline Gardam	Bruce Gowan	John Blyth	Sylvia Sayers
Claire Jordan	Kylie Lunson	Michael Williams	

Other:

Dave Race	Geoff Dobson	Joshua Jackson	Peter Tuson
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WELCOME AND INTRODUCTIONS

All persons in attendance were advised that it is Council policy to record Council meetings, in accordance with Council's Digital Recording Policy. The recording of this meeting will be made available to the public on Council's website for a minimum period of six months. This meeting was Live Streamed to the Devonport City Council YouTube channel.

The Mayor introduced the Councillors and staff in attendance and thanked everyone for coming and complying with Council's COVID safe requirements.

1 ANNUAL GENERAL MEETING GUIDELINES

The Mayor outlined the Annual General Meeting Guidelines as published in the Agenda.

Mr Graeme Nevin raised a point of order, suggesting that the AGM procedure was out of order and that the meeting should not continue. The General Manager clarified that the meeting has been structured and arranged in accordance with section 72(b) of the Local Government Act and that the processes put in place have been done so correctly. The Mayor did not accept Mr Nevin's procedural motion.

Mr Nevin raised a point of order, asking if he was permitted to raise a motion of dissent, or if the meeting regulation rules of 2015 were applicable? The Mayor dismissed the point of order, and continued to outline the Guidelines for the meeting.

2 APOLOGIES

Mr Doug Janney
Ms Desley Blanch

3 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

4 CONFIRMATION OF MINUTES

MOVED: Cr Murphy
SECONDED: Cr Hollister

That the minutes of the Annual General Meeting held on 9 December 2019, as attached, be confirmed.

Amended Motion:

Mover: Mr Vellacott
Seconded: Mr Gardam

That the minutes of the annual general meeting held 9 December 2019 as circulated be confirmed provided that after the last entry has been amended so as to delete the words "There being no further business the Mayor declared the meeting closed" and that the following be inserted so the last sentence shall read - "The Mayor, contrary to the council's code of conduct, knowing that several ratepayers and

electors wished to introduce further business, and a procedural motion was being put, abruptly declared the meeting closed at 6:24pm".

FOR	14
AGAINST	32
OUTCOME	Lost

The Mayor then put the original motion:

That the minutes of the Annual General Meeting held on 9 December 2019, as attached, be confirmed.

FOR	35
AGAINST	11
OUTCOME	Carried

5 PRESENTATION OF ANNUAL REPORT

The General Manager provided an overview of the 2020 Annual Report

6 SUBMISSIONS/QUESTIONS TO THE ANNUAL REPORT

MOVED: Mr Goodwin

SECONDED: Ms Sayers

That submissions and questions, and the subsequent answers, on the 2019/20 Devonport City Council Annual Report, be noted.

FOR	35
AGAINST	0
OUTCOME	Carried

7 MOTIONS ON NOTICE

7.1 NOTICE OF MOTION FROM MR BOB VELACOTT

MOVED: Mr Vellacott

SECONDED: Mr Gardam

That – We the ratepayers / electors here present, noting that no apology whatsoever has so far been forthcoming, hereby request an unequivocal apology from the General Manager, Mayor and those Councillors responsible for the intolerable situation in regard to in particular the Food Pavilion now known as Providore Place, and among other things, the mismanagement and subsequent loss of revenue from Stage 1 of the Living City project, for the following reasons:-

1. THE DEVONPORT CITY COUNCIL'S ATTITUDE TO TRANSPARENCY relating to Living City decision making almost exclusively done in Closed (secret) Session and the deals done with private enterprise, has alienated large sections of the electors. This is largely due to Council's refusal in many instances to substantiate its representations and provide few real time disclosures other than those forced upon them. Unfortunately, in relation to many statements made by Council or its appointed Project Development Manager, Council never provided or provides evidence to substantiate its public representations and for over four (4) years has resorted to various tactics to avoid transparency and accountability relating to this project. From what has transpired "Transparency and therefore accountability is/ was not in abundance at the Devonport City Council".

2. THE ARGUABLY DECEITFUL CLAIMS – on 7th December 2016 the Deputy General Manager (at that time and now the General Manager) was reported as saying "we've got a 10-year lease with Providore Place to run it and we're getting a good return above the independently assessed market value," and " the revenue the council received on the food pavilion was guaranteed through the head lease arrangement and removed the council's exposure to financial risk." and "Projected food pavilion income is \$400,000 per year"

All above said and oft repeated; and when challenged to provide the evidence, the statements were never refuted by the Mayor and Councillors, who knew or should have known, that those statements were false. Members of council, with only a skerrick of business acumen, should have known that statements such as those made by the then Deputy General Manager, if made by the management of any public listed company, could have received a severe penalty imposed by ASIC for false representation to investors and/or shareholders (ratepayers in the case on Devonport Council). The Acting General Manager's information was ultimately relied upon by councillors in approving the entering into of the initial head lease agreement, which, with the passage of time, was proved, by the Auditor General, to be grossly deficient and based on misguided advice at best?

3. THE MISLEADING STATEMENTS MADE –the Development Manager In 2013 –said in relation to the then Stage 2 new retail precinct that he had "spoken to 15 national retailers and 13 were keen to come to Devonport" and "Negotiations must remain confidential, but it is expected that key announcements can take place in 2014." As the passage of time has demonstrated and eventually admitted by Council there were never any firm commitments prior to approving Stage 1. The prospect of a "new northern retail precinct" is now all but non-existent. In the extended period leading up to approval of Stage 1 and in 2016 Council represented it was "not a council-funded project" and "without relying on income from Council's existing revenue streams." At the same time it announced for the first time only some 14 days prior to

approving Stage 1 that a ratepayer contribution of \$11 million of cash reserves (later increased to \$13.3 million) and up to \$39 million of borrowings were required for Stage 1 construction alone. Also the statement "Council will not be the main financier of Living City "which in time has been proven to be a fallacy.

4. THE FARRAGO of EXAGGERATED / UNSUBSTANTIATED CLAIMS – as per the 2014/5 Living City Master Plan Fact sheet, it stated Living City will create \$250 m investment over 5-8 years, and more than 1,100 ongoing jobs will be created. This was later changed to - Living City will generate in relation to NEW on-site jobs "nearly 830 full-time operational jobs in Devonport CBD...." as well as there will be an annual \$112 million economic benefit. Also a claim was submitted that "The project is guaranteed to unlock \$270 million in private investment" all put forwarded to garner ratepayers' support and some to obtain Government funding.

5. THE DEMONSTRATED EFFORTS BY COUNCIL TO CONCEAL INFORMATION AND SUBSEQUENT ABUSE OF PRIVILEGE - at various times and in particular, at the time, the secretive waiving of Providore Place rent just prior to the 2018 council elections. When questioned the present Mayor agreed this could have had a bearing on the outcome of the election had the electors been aware of the unfolding economic mess. The Local Government Act was often, over "cherry picked" to limit the amount of information to be disclosed; no doubt, so as to conceal the mismanagement and deteriorating financial situation in regard to Providore Place.

6. THE MANY NON and/or EVASIVE ANSWERS GIVEN TO QUESTIONS ASKED AT MEETINGS - Council repeatedly refused to confirm any firm or formal commitments, from individual tenant leases, existed prior to approving construction of the food pavilion (Providore Place) despite a written commitment by Council not to start construction as stated in the "Stage 1 Funding Implications" report to Council dated February 2016; being "It is accepted that work will not start on the Food Pavilion until Council has the necessary level of certainty in the form of secured tenant commitments." This assurance was also proved to be incorrect by the Auditor General. Since then we have learnt that council did not seek legal advice and no rent was paid by the head lessee under the initial head lease. The "Head Lease Agreement "was actually not a fully commercial based lease but moreover a "cooperative shared arrangement".

7. THE FAILURE OF COUNCIL TO UNDERTAKE THE REQUIRED DUE DILIGENCE in regard to the comprehensive business case studies as required by consultants HillPDA so as to validate their estimates of 830 new CBD ongoing full-time direct jobs and significantly more indirect jobs and \$112 million of economic output annually despite repeatedly and unambiguously communicating to ratepayers that these outcomes justified the appropriation of approximately \$50 million in ratepayer cash reserves and additional borrowings for Stage 1 of the Living City Project.

* Council's failure to tender the LIVING CITY project management contract and the appointment of a Company and project director not necessarily the most proven in delivering urban renewal projects of the equivalent size, scale and complexity to that of Living City.

* Also Council should not have, to ensure ratepayer interests were fully protected, entered into a non-tendered confidential 10 year \$4 million food pavilion head lease with connections of the lead project consultant without Council having any knowledge of the fact that the issued paid up capital of the lessee Company was a minimal \$20,000 (0.5%) of the contract value thereby placing ratepayers at significant risk in the case of default. Council has refused to release the head lease document making it impossible to know whether adequate default clauses existed.

8. THE WAIVING OF RENT of some known, \$357,480 in revenue, as well as other unknown amounts for legal and council staff costs etc, due to an unenforceable agreement. This was because of Council's failure to insist on a director guarantee(s) for the so called Head Lease Agreement. Thus the secrecy about this and the costly extravagant fit outs of some \$651,000 excl. GST plus estimated equivalent amount for tenant-specific base-build requirements all constituted subsidisation of the tenancies in Providore Place that were and or will be in direct competition to other businesses in the city. Consequently, because of the secrecy, it has put them at an unfair advantage in not being able to know the full extent of the subsidisations.

9. The Conflicts of Interest - The Auditor General's Report stated - "Evidence obtained by us indicated the head lease was primarily drafted by P+i and appeared to be missing a number of standard lease clauses " and "DCC did not obtain independent legal advice on the lease agreement before being signed. DCC entered into the head lease agreement with PPD knowing: potential conflicts in future decision making could arise given P+i's development management role" and "The relationship risk between DCC and P+i in entering into the head lease arrangement, although acknowledged, was not adequately managed" and "DCC had not met good governance principles relating to transparency, equity, participation and inclusion and effective and efficient decision making." This and other areas within Living City where potential conflicts of interest could also arise was pointed out and questioned on many occasions by concerned ratepayers but was ignored by council.

10. THE COUNCIL'S FARCICAL ACTION IN NEGOTIATING A REPLACEMENT HEAD LEASE FOR PROVIDORE PLACE- Despite non-payment of rent due, as per the initial head lease agreement, and after Council received from the Auditor General a damning report, Council entered with the same entity, while some \$200,000 remained owing to Council, a 2 year term replacement head lease agreement that was subsequently terminated within 3 months of commencement.

We the Electors wish to also make it known of our extreme disappointment to you the now General Manager, the now Mayor and those Councillors who at the time were complicit in the ongoing mismanagement and concealment of information; also in regard to the cavalier conduct and contempt shown, on many occasions, towards those who questioned and/or expressed concern about the project.

Further - That the apology be given within one (1) month of this AGM and recorded in a meeting Agenda and the minutes. "To you the electors here present I ask for your unequivocal support for this motion by voting in the affirmative.

FOR	13
AGAINST	35
OUTCOME	Lost

7.2 NOTICE OF MOTION FROM MR GRAEME NEVIN

MOVED: Mr Nevin

SECONDED: Mr Gardam

That the Devonport City Council:

1. commission an enquiry and report;
2. independent of council;
3. with the report made public (apart from item A below)

Regarding what has happened with Providore Place including reference to the following:

- A) Whether the DCC has any potential claim against any person or entity (other than the head lessee) concerning recovery of the Providore Place losses suffered by DCC?
- B) Whether the 2016 councillors acted in good faith when granting the head lease in relation to Providore Place?
- C) Why Council granted a head lease with clauses protecting Council's position absent?
- D) Why did Council not want any legal advice on the head lease?

Cr Jarman declared an interest and left the room at 6:47pm

FOR	17
AGAINST	29
OUTCOME	Lost

Cr Jarman returned to the meeting at 6:56pm

7.3 NOTICE OF MOTION FROM MR DOUG JANNEY

MOVED: Mr Mobbs

SECONDED: Cr Jarman

That council, at the next meeting, consider providing all ratepayers of 50 years or more with parking vouchers as provided to pensioners.

FOR	39
AGAINST	3
OUTCOME	Carried

8 GENERAL BUSINESS

Rodney Russell – 225 Steele Street, Devonport

Q1. Page 16 Workforce profile – male, female. As there is 90 male and 37 female full time employees, can you give us some insight as to why there is 22 part-time female compared to 7 male and 14 casual female compared to 6 male?

Response

The Mayor advised the nature of the work and the fact that part-time does suit, or casual does suit, women perhaps more than males and the nature of the work. I would love to see it 50/50 but that is not necessarily going to happen overnight, but it is the nature of the work that we offer.

Q2. Bus stop infrastructure. State Government grant \$430,000 – Infrastructure contract works \$368,000. Where will the balance money be spent?

Response

The General Manager advised that the amount quoted by Mr Russell is the amount that was awarded to the contractor, and there would be some other associated costs such as project management, design costs, I don't have them all on hand but there would be some other costs that would make up that total budget of \$430,000.

Q3. Page 58 waivers relating to COVID-19. Commercial properties – rent relief \$84,000. What percentage of monthly rent was waived for the tenants?

Response

The General Manager advised it varied significantly from tenant to tenant, for some it was zero and for others there was short periods where it was 100%. The percentage ranged from 0 to 100, the most common was 50%, but there was a range of 0 to 100.

Q4. Financial report page 3. Why was the print for the sentence at the bottom of the page so very small when there was space for it to be larger?

Response

The Mayor noted Mr Russell's feedback.

Jennie Claire - Ratepayer, Devonport

Q1. My question relates to procedures. At last year's Annual General Meeting the Mayor stated that motions put to the meeting by the public which were passed, would be considered at the next ordinary meeting of Council. There were four such motions last year, and my question tonight concerns what happened to those four motions at the next Council meeting. The words must be considered at the next council meeting, surely means that discussions of the motions by councillors would take place at that meeting, and indeed, one of the councillors at the time felt that and stated the same. Yet the resolution in question, says that Council had already considered the four motions, that was the wording of the resolution, thereby ignoring the requirements of the Local Government Act. Further, the resolution excluded two of the motions, and required councillors to vote only on the other two, and to vote on the other two as a package. To meet the requirements of the Act, shouldn't all of the motions have been presented and dealt with individually, and voted on individually? Councillors were in effect restricted by the wording of the resolution, yet it is councillors, not staff, who the people of Devonport have voted in to make decisions on their behalf. So my question is, will Council take steps to ensure that, as required by the Local Government Act, motions that pass at this meeting, and this is a moot point now, will be discussed by Councillors at, not prior to, the next Council meeting, with each motion being discussed and voted on separately?

Response

The Mayor noted that we do have the opportunity to discuss items at a workshop, but the decisions are made at Council.

Ms Claire – noted that the Act says, the items have to be considered at the Council meeting, and the resolution said, this is a direct quote, "The motions have already been considered". Already been considered.

Response

The General Manager brought the motion up on Council's website and noted that it wasn't those words, it said, "Having considered the four motions" Council then went on to resolve two steps in regards to two of the motions. We are comfortable that the correct process was followed; the 2019 AGM was held early December, the requirement is that any motions passed are then tabled for consideration at the next available Council meeting, that occurred at the December meeting and the report is there on the website. I'm confident the report met the requirements of the Local Government Act and provided all motions for Council's consideration.

Q2. At the March meeting, Council provided additional delegation to the General Manager to ensure continuity of business during the COVID pandemic. This included the ability to approve planning applications which otherwise would have gone to the Planning Authority Committee, or perhaps to a Council meeting. There were six applications approved under this delegation, including the Stony Rise Road Friend Street application. It is the Stony Rise Friend Street DA which is of concern for a couple of reasons. One is, that the General Manager has informed me that there was no environmental assessment done of the land, although it is thought to have endangered vegetation and wildlife present. Another is that the passing of the DA in this manner means that the details of the DA are not available in the minutes of a Council meeting, as they would be if it was passed at a meeting. The public cannot view it unless they are prepared to put in an RTI request to Council. There was one representation regarding this development which would normally mean that the DA would be required to go to a Council meeting. However, this requirement was waived due to the State of Emergency caused by the pandemic. When asked if the Council could add this detail to a Council meeting agenda so it would be available to the public who might want to have a look at a big development, the answer was no. With the technology available, our councillors, to their credit, did not miss a single Council meeting, yet the Planning Authority Committee, apparently was unable to meet its obligations in regard to meetings and to deal with at least the Stony Rise Friend Street DA, which was large, contentious and had attracted one representation. So my question tonight is, in the interests of transparency and good governance, will the Council undertake in future to ensure that all large DAs are put before the Council or the Planning Authority Committee, unless of course there was some extremely drastic situation?

Response

The General Manager advised that future delegations from the Council to the General Manager will obviously be a call for Council at the appropriate time, but in reference to the application that Ms Claire mentions, Council made the decision during COVID to allow business to continue as much as possible and provided those additional delegations so there wasn't delays in approving development applications. It is fair to say that the delegation provided was hardly extreme. The DA was advertised, it was advertised for a fourteen-day period, it received one representation, some councils delegate that to Officers, others have a Planning Committee. This Council in the past, in years gone by, previously allowed applications with up to three representations to be decided by Officers, so certainly the delegation that Council provided wasn't extreme and was done in a period

when Council felt it was important to progress developments as quickly as possible and not to cause unnecessary delay.

Ms Claire – why would there have been a delay if the Planning Authority Committee had done it?

Response

The General Manager advised that Council quickly put those delegations in place, they felt that was an easier way and a quicker way to do that with the restrictions and the moving beast that was COVID at the time. We were still waiting on the Government to bring in regulations to actually allow Council to meet remotely, that required changes to the Local Government Act and in the interests of allowing business to continue, made that decision.

Q3. This question relates to the way that some questions that have been put to the Mayor at Council meetings, have received an answer such as the following, 'The Mayor advised that there is a report later in the meeting where we will deal with that thank you'. So what I'm saying here is that when a question is asked, sometimes that is the answer, its going to be part of a motion later in the meeting, or a recommendation, and it will be dealt with then. That was the response at the December 16, 2019 Council meeting, to a question of mine. As it happened, my question was not discussed, let alone answered at that agenda item, because that was the item where the four motions of only two were even included that I mentioned in the first question. And I've seen numerous other questions which have been asked by the public side stepped in this manner. So my question tonight is this, does everyone understand what I'm talking about, that is the answer to the question that it will be answered later in the meeting when that item is discussed, and then when the item comes along and is discussed, it isn't answered, because quite often there is very little discussion. So the question is, on occasions, where it is said a question will be answered when the relevant item arises during the meeting, can steps be taken to ensure that it is answered, and if it's not answered, can that question be automatically placed as a question without notice on the agenda of the next Council meeting, and not be counted as part of that person's three questions for the next meeting?

Response

The Mayor advised it could certainly be a question without notice however I'll just clarify that usually it is practice that we do not discuss in question time, items on the agenda. I don't think I say that the question will be answered, I think that the item will be discussed, and if I've said that, that's obviously not quite correct. The item will be discussed later in the meeting and it's general practice that we don't take questions around items that will be on the Agenda at that meeting.

Ms Claire – so the result of that then is that the question doesn't get answered.

Mayor – that's true.

Ms Claire – and is that in the interest of good governance and transparency?

Mayor – there is the opportunity to put a question on notice, or a question in writing, but given there is an item for discussion that Council has to rule on, generally it is accepted that we don't make comment about that in question time.

Ms Claire – the wording is, we will deal with that.

Mayor – I understand where you're coming from. Thank you.

Malcom Gardam, 4 Beaumont Drive Miandetta

I wish to comment on the Annual General Meeting Guidelines first disclosed publicly in full on Page 4 of tonight's Agenda.

When questioned about the Notice of AGM dated 24/10/20 inclusion of the statement that "motions from the floor will not be accepted" the General Manager stated "it is certainly a practice that some other councils follow and it's a practice that the Director of Local Government is comfortable with."

When questioned in the current AGM Agenda as to "Will Council provide a list of "other councils" that enforce the practice of not allowing motions from the floor at AGM's?" and "Will Council provide evidence that the Director of Local Government, at the time the decision was made, was comfortable with the practice?" the GM response recorded in the Agenda is "Council has not done extensive review of the practices of other councils, however we are aware of some councils which follow a similar approach."

The General Manager's earlier statement was also reported in today's Advocate.

Q1. I ask the General Manager again, through you Madam Chair, which are the "some councils that follow a similar approach" that you stated you were aware of?

Response

The General Manager advised he sought advice from the Local Government Division and part of that reply said that it's a practice that some councils follow, and they referred us to the website of one particular council, but regardless of what other councils do, we're comfortable with the approach and felt that it gave the community the opportunity to see what was on the agenda and what the motions were that were to be debated at this AGM.

Q2. You said that you were directed to a council's website, I now ask the General Manager, again through you Madam Chair, as to which councils you contacted to validate the statement that "it is certainly a practice that some other councils follow"?

Response

The Mayor advised that question had been asked and answered and asked Mr Gardam to move on.

Mr Gardam - Well Madam Chair, you said you didn't do extensive research or review, well I did. I rang 28 councils, and as of today's date, 26 have responded that they accept motions from the floor.

Mayor – thank you Mr Gardam, we appreciate your diligence.

Mr Gardam - When asked about that, it was undertaken through consultation with the Mayor. In summary, and on Council's pretext of openness and transparency, the GM and Mayor took it upon themselves to:

1. Introduce mandatory rules under the guise of "guidelines" which are never mandatory but in this case include words such as "must be" and "will not be accepted".
2. Undertake no community consultation whatsoever prior to disclosing said guidelines in tonight's Agenda.
3. Make false or misleading representations as to being aware that no motions from the floor are accepted as a requirement of some other councils.
4. In enforcing this ad hoc (last minute disclosure) denied electors the opportunity to review, comment and question the whole of the guidelines in advance of

tonight.....with the mandated deadline for AGM motions having passed by the time the disclosure of the full content surfaced.

5. Even if the requirements prove to be technically lawful they are certainly not in the "spirit" of the Act and trashes an elector's democratic right to freely participate in an AGM.

It must be remembered that the GM and Mayor are the same duo that tried to defend the Mayor's premature closure of last year's AGM by offering no less than 7 reasons that the Mayor had authority to close that meeting, where as Chair, the Mayor refused to take a previously flagged ratepayer motion from the floor and a subsequent procedural motion.

The Code of Conduct Panel reduced the 9 reasons offered for closing the meeting, over and around a ratepayer who had the attention of the Mayor at the time and was trying to speak to a status of excuses and that the Mayor likely closed the meeting to avoid, in her mind, perceived personal embarrassment.

I put it to the meeting that banning motions without notice from the floor appears to be an extension of the same motivation.

- Q3.** The Code of Conduct Report included in relation to last year's AGM that "The Panel heard that the Mayor considered that the meeting was getting a bit out of control, and it was one of her reasons for closing it quickly." but then stated "The Panel finds that on this count the decision to refuse any more motions was not made objectively considering the merit of the way in which the members of the public were conducting themselves at the meeting." Accordingly I ask for the benefit of many here tonight that attended last year, a question the Mayor has refused to answer previously in that, Mayor just who or what in your mind was "getting a bit out of control"?

Response

The Mayor said, Mr Gardam I have already gone through an extensive code of conduct panel hearing, I have apologised for my decision that I made last year and I have nothing else to add, thank you.

Mr Gardam - the behaviour of the public gallery last year was

Point of Order raised by Councillor Milbourne - that Mr Gardam was engaging in bullying and harassment behaviour.

Mr Gardam - the behaviour of the public gallery last year was exemplary considering your actions as Chairperson

Point of Order raised by Councillor Milbourne – it has been asked and answered.

Mr Gardam - so in the absence of

Point of Order raised by Councillor Milbourne – this is not ok and is bullying and harassment.

Mr Gardam – I commend the gallery last year for their behaviour.

Mayor – Mr Gardam I'm giving you a lot of latitude here.

Mr Gardam – I have a couple of questions here, they're quite easy these ones, thank you Madam Chair for that latitude, I appreciate that. It's not always easy but sometimes there are questions to be asked, people want them asked and people want them answered.

- Q4.** Why were the items within the attachment to the Agenda tonight, not included in the Agenda handout as such, surely the page count was not greater than that that we hand out for ordinary meetings during the whole of the year. The attachments were not part of the handout?

Response

The General Manager advised the Agenda was run in the same way as the last Council meeting agenda was, there is the document that includes the agenda and then the attachments are a separate document. Both of those documents are available on the website and were available for this meeting.

Q5. In this Agenda, I previously asked, "Will Council please provide the individual "fair value" book entries on the asset register for the following Living City premises", I'll read them out in a minute. The response was "This information is not readily available in the requested format. These properties include multiple individual assets across several asset classes and it would require resources that are currently unavailable to calculate the answers requested."

Accordingly, I now ask will Council please provide the individual "fair value" book entries for, each of the following properties, for the combined land and buildings for these items listed below. And the properties that I would like to know, what is the carrying value for the land and the property and the buildings, are for:

- 6-10 Steele Street (former Webster building)
- 17 Fenton Way (current Harris Scarfe Site)
- 21 Oldaker Street (former State LINC/ Library Site)
- 137 Rooke Street (paranaple centre)
- 17 Oldaker Street (Providore Place)
- 40-48 Best Street (multi-level carpark)

Response

The General Manager clarified that submissions and questions for the Annual Report, I think the last one was received at about 1:00am Wednesday morning, or late Tuesday night. There were 41 questions in total that were all answered on Tuesday and Wednesday to allow the Agenda to be put out that Wednesday night. The one question that you said hasn't been answered, it was simply due to the resources required to follow that up, and that's to do with the asset values. And to correct that for the record, there has been a lot of talk about the asset values incorrectly referencing the value of Providore Place against the asset values and saying that is somehow a loss. That book asset value, Council is required to carry the building at that amount under the Australian Accounting Standards, whether we agree with it or not, we had to follow those standards, and that's what is in the financial statements and that is what we have been audited on.

Mr Gardam - That does bring to one other question that has been raised, and that is the timing factor. Council had so little time from releasing the notice and the deadline for submissions. Last year at the AGM there was a motion put by Mr Janney and it was successful and it was we would take the time for submissions from 28 days back to 14 days, and this year, for some reason we had a bit of an unhealthy haste and I think we ended up with about 8 days from the time you could get your hands on a hard copy of the Annual Report to make a submission, so I feel for you in having to answer 41 questions, but it was your decision, that you'd only give us until tonight and effectively about 8 days to make submissions, when you could have had it this next Monday night, and you would have given yourself time, and also the people to put submissions in.

Response

The Mayor thanked Mr Gardam for his comments.

Peter Stegmann - 118 River Road, East Devonport.

Q1. Currently Council have a number of staff working from home, how many staff are working from home currently?

Response

The Mayor advised that some staff are currently doing both, so it varies from day to day.

Mr Stegmann – I rang the Planning Department on Friday, and someone said all the staff are working from home, and someone would get back to me. I had to ring again this morning and tell her that it was getting rather urgent because I had a time frame to get a submission in, and I was pleased that they did get back, but I was just wondering when staff are coming back into the office again, because I would have thought that would have been appropriate and it would be easier to work with the staff in the office rather than being remotely operating, especially with planning when you've got to discuss things. Have you got a time frame when they are coming back?

Response

The General Manager advised there is not a direct connection between, staff whether they're working at home or based in the office down below, and any impact on the response times.

Mr Stegmann – I was told that I could wait for three days, that they try to respond within three days. When I ring up Ulverstone for a similar thing, I get directly on to someone and get an answer immediately.

Mayor – thank you, your comment is noted.

Bob Vellacott - 11 Cocker Place, Devonport.

Q1. Will Council review the decree that the Devonport City Council Annual General Meeting motions from the floor will not be accepted and that notice of any motion must be given by a certain date. I believe this is in breach of the long standing basic democratic right and a convention that has allowed electors who have attended Annual General Meetings to move relevant, lawful motions.

Response

The Mayor advised that question would be taken on notice.

9 CLOSURE

The Mayor declared the meeting closed at 7:29pm

2nd November 2021

Devonport City Council
137 Rooke Street
DEVONPORT TAS 7310

Malcolm Gardam
4 Beaumont Drive
MIANDETTA TAS 7310
(Mobile No: 0417 355 813)

ATTENTION: MR. MATTHEW ATKINS – GENERAL MANAGER

RE: SUBMISSION AND QUESTIONS ON NOTICE TO THE 2021 AGM

Dear Sir,

With reference to the Notice of Annual General Meeting dated 20th October 2021, the following is submitted for inclusion in the Agenda for the Annual General Meeting of Council scheduled for Monday 8th November 2021.

Questions on notice re the Annual Report 2020-21

Q1. With reference to Page 54 “Rate remissions – not-for-profit organisations” it is noted that Council has previously identified for profit organisations receiving rate remissions (E.g. – according to Council disclosures Australian Weaving Mills did not pay rates from 1991 up until closing); accordingly, have any for-profit organisations received rate remissions and if so then please list which entities and the amounts waived?

Questions on notice re the Annual Financial Report - EOFY 30 June 2021

Q2. With reference to Page 8 Item 1(i) “Change in accounting standards” will Council please clarify each of the following separately:

- a) The heading “Change in accounting standards” insinuates that there has been a change to the accounting standards on this specific matter and not just a change of application by Council in the valuation methodology in respect to one building – Providore Place; accordingly, will Council advise as to the specific change in accounting standards supporting its changed valuation methodology relating to Providore Place?
- b) Would a heading reading “Change in valuation methodology” not have been more appropriate and correct?
- c) Council states that *“The operation and management of the asset changed during the year, resulting in Council acting as purely a landlord with commercial leases in place for all except one of the tenancies at 30 June.”* however, Council has always been the landlord and the only change has been direct leasing rather than a single sublease; accordingly, will Council advise the specific section of the accounting standard AASB16 that differentiates between the two landlord scenarios that Council has offered to support its changed valuation methodology this year and not last year?

- d) If it cannot be substantiated that the accounting standards necessitated the changed valuation methodology this year then why did this same reasoning not apply last financial year other than to avoid an obvious Providore Place valuation write-down of some \$5.7 million (excluding allowances for depreciation) some 18 months after opening its first tenants?
- Q3.** With reference to Page 11 “Significant business activities” will Council please clarify each of the following separately in relation to the column headed “paranaple Arts Centre and Convention Centre*”:
- a) Does this column include costs associated with the council offices and if not what is the “Calculated surplus / (deficit)” for the council offices?
 - b) Is Council prepared to provide a detailed summary of contributions for the “Fees and charges, Other and Grants and contributions” included in the Total Revenue of \$594,000 for 2021 being down from \$797,000 in 2020?
 - c) Will Council detail how it achieved the reduction in the “**Calculated surplus / (deficit)**” of (\$2.685) million in 2021 down from (\$3.438) million in 2020?
- Q4.** With reference to Page 21 “Other expenses” will Council provide a **cost breakdown by area of operation** that constitutes the total “Bad and doubtful debts” of \$154,000?
- Q5.** With reference to Page 46 Item 42(ii) Councillor Remuneration, specifically Expenses², and the notional parking benefit of \$3,075 per annum, is it paid to or on behalf of councillors for parking such as parking in the multi-level carpark?
- Q6.** With reference to Page 47 Item 42(iii) line item “Termination benefits⁶” for Paul West **in the 2020 Table**; will Council provide a detailed cost breakdown of the benefits included in the \$174,026 paid, and if not, noting the table includes five other separately listed benefits amounting to some \$110,000, will Council confirm that the amount of \$174,026 did not include a redundancy or termination payment of any sort in addition to Council’s legal obligations?
- Q7.** With reference to Page 47 Item 42(iii) column heading “Non-monetary benefits⁷” described as “*Other non-monetary benefits include annual and long service leave movements.*” will Council advise what other non-monetary benefits are included and in particular why the line item for Paul West in 2020 was a (\$145,293) credit?
- Q8.** What was the reason for re-characterising the entitlements, being the large non-monetary benefits to a termination benefit for the former General Manager, Paul West, in 2020?

Please acknowledge receipt and ensure inclusion in full in the 8th November 2021 Annual General Meeting Agenda.

Yours sincerely,

Malcolm Gardam
CC: Mayor & Councillors



DEVONPORT CITY COUNCIL

ABN: 47 611 446 016

PO Box 604 Devonport TAS 7310 – 137 Rooke Street, Devonport

Telephone 03 6424 0511

Email council@devonport.tas.gov.au Web www.devonport.tas.gov.au

2 November 2021

Mr M Gardam
4 Beaumont Drive
MIANDETTA TAS 7310

Dear Mr Gardam

Response to Question on Notice to the AGM – 8 November 2021

I refer to your question on notice provided for the 2021 Annual General Meeting and provide the following response:

Q1. With reference to Page 54 "Rate remissions – not-for-profit organisations" it is noted that Council has previously identified for profit organisations receiving rate remissions (E.g. – according to Council disclosures Australian Weaving Mills did not pay rates from 1991 up until closing); accordingly, have any for-profit organisations received rate remissions and if so then please list which entities and the amounts waived?

Response

No for-profit organisations received a rates remission during the 2020/21 year.

Q2. With reference to Page 8 Item 1(i) "Change in accounting standards" will Council please clarify each of the following separately:

- a) The heading "Change in accounting standards" insinuates that there has been a change to the accounting standards on this specific matter and not just a change of application by Council in the valuation methodology in respect to one building – Providore Place; accordingly, will Council advise as to the specific change in accounting standards supporting its changed valuation methodology relating to Providore Place?
- b) Would a heading reading "Change in valuation methodology" not have been more appropriate and correct?
- c) Council states that "The operation and management of the asset changed during the year, resulting in Council acting as purely a landlord with commercial leases in place for all except one of the tenancies at 30 June." however, Council has always been the landlord and the only change has been direct leasing rather than a single sublease; accordingly, will Council advise the specific section of the accounting standard AASB16 that differentiates between the two landlord scenarios that Council has offered to support its changed valuation methodology this year and not last year?
- d) If it cannot be substantiated that the accounting standards necessitated the changed valuation methodology this year then why did this same reasoning



The City with Spirit

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not apply last financial year other than to avoid an obvious Providore Place valuation write-down of some \$5.7 million (excluding allowances for depreciation) some 18 months after opening its first tenants?

Response

The change in accounting treatment in relation to the valuation of Providore Place was subject to review and approval by the Tasmanian Audit Office. There were several options for the disclosure of this change, however following discussion with the Audit Office, this was the preferred disclosure.

- a) The heading "Change in accounting standards" referred to on Page 8 is a standard heading used in the Model Accounts. The first line of the paragraph under the heading clearly states the change relates to a change in valuation methodology for one building.
- b) See response above
- c) AASB 16 is not relevant to the change in valuation methodology.
- d) All building assets were reviewed during 2020/21 in line with the cyclical revaluation schedule. As stated in Note 1, the building is now valued consistently with other Council owned commercial buildings.

Q3. With reference to Page 11 "Significant business activities" will Council please clarify each of the following separately in relation to the column headed "paranaple Arts Centre and Convention Centre*":

- a) Does this column include costs associated with the council offices and if not what is the "Calculated surplus / (deficit)" for the council offices?
- b) Is Council prepared to provide a detailed summary of contributions for the "Fees and charges, Other and Grants and contributions" included in the Total Revenue of \$594,000 for 2021 being down from \$797,000 in 2020?
- c) Will Council detail how it achieved the reduction in the "Calculated surplus / (deficit)" of (\$2.685) million in 2021 down from (\$3.438) million in 2020?

Response

- a) Costs of operating the Council offices are not included in this item. These costs are included in the overall Council surplus calculation.
- b) The reduction in revenue was primarily driven by the Town Hall Theatre. Performances continued to be cancelled during the year due to State border closures.
- c) The reduced deficit was driven by two key factors, being reduced operations in the Town Hall Theatre resulting in a significant reduction in operating costs and the Convention Centre experienced strong growth in events, impacting positively on income.

Q4. With reference to Page 21 "Other expenses" will Council provide a cost breakdown by area of operation that constitutes the total "Bad and doubtful debts" of \$154,000?

Response

Bad & Doubtful Debts Expense is made up as follows:

Parking	150,020
Development & Health fees	28,046
Movement in Estimated Credit Losses	
as per AASB 9	(23,348)

Council Policy is to treat Parking and Animal Fees as bad debts when referred to collection agencies. Subsequent recoveries are shown as Sundry Income.

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Q5. With reference to Page 46 Item 42(ii) Councillor Remuneration, specifically Expenses², and the notional parking benefit of \$3,075 per annum, is it paid to or on behalf of councillors for parking such as parking in the multi-level carpark?

Response

As stated, the calculation of the Parking benefit is a notional value only, the amount is not paid to Councillors.

Q6. With reference to Page 47 Item 42(iii) line item "Termination benefits⁶" for Paul West in the 2020 Table; will Council provide a detailed cost breakdown of the benefits included in the \$174,026 paid, and if not, noting the table includes five other separately listed benefits amounting to some \$110,000, will Council confirm that the amount of \$174,026 did not include a redundancy or termination payment of any sort in addition to Council's legal obligations?

Q7. With reference to Page 47 Item 42(iii) column heading "Non-monetary benefits⁷" described as "Other non-monetary benefits include annual and long service leave movements." will Council advise what other non-monetary benefits are included and in particular why the line item for Paul West in 2020 was a (\$145,293) credit?

Response Q6. & Q7.

Council will not release further detail in relation to payments to employees.

Q8. What was the reason for re-characterising the entitlements, being the large non-monetary benefits to a termination benefit for the former General Manager, Paul West, in 2020?

Response

As stated in the relevant Note, non-monetary benefits include movements in leave entitlements.

Yours sincerely



Matthew Atkins
GENERAL MANAGER

AGM2021 RBV – Pokies N motion Qs oN Final Send OK

ROBERT B. VELLACOTT
11 COCKER PLACE
DEVONPORT 7310

THE GENERAL MANAGER
DEVONPORT CITY COUNCIL
PARANAPLE CENTRE
BEST STREET DEVONPORT

2nd Nov. 2021

ATTENTION – Mayor and Councillors

Subject : DEVONPORT CITY COUNCIL 2021 ANNUAL GENERAL MEETING QUESTIONS ON NOTICE AND NOTICE OF MOTION RE POSSIBLE INCREASE OF GAMING VENUES AND OR FACILITIES .

QUESTION 1

PREAMBLE - Mayor and Councillors I understand council is committed to always work in the best interests and welfare of not only ratepayers but all others in the city and the region. Bearing in mind what a councillor stated at a recent council meeting i.e. *“Sometimes we have to do what is in the best interests of the community”* I therefore ask –

Mayor and Councillors will you give an indication to the ratepayers and citizens of Devonport as to whether or not you would support, in any way whatsoever-

(a) an application made to the Liquor and Gaming Commission, to permit any licensed gaming of any form in any new buildings in Devonport and or increase expansion in existing premises?

(b) a person seeking to obtain a licence to install and or manage licensed gaming machines

NOTICE OF MOTION Robert B Vellacott – (Ratepayer / Elector) to move : Seconded -

*“That we the electors here present at the Devonport City Council 2021 Annual General Meeting here- by express in the strongest possible terms our **opposition** to any increase in the number of licensed gaming devices in existing venues and or the licensing of new premises for the purpose of licensed gaming in the municipality and we request our elected representatives being the Mayor and Councillors to on our behalf oppose an application to – (a) increase gaming devices in any existing venues, and or the installation of the devices in new premises and (b) refrain from supporting any person or entity seeking to obtain a licence to increase and or manage licensed gaming in Devonport. “*

Mayor with your permission, I wish to reserve the right to speak in support of the motion and request that I be given the right of reply before a vote is taken.

Please include all of above, the supporting information (annexure page 2) and your responses to my question in the agenda for the 2021 AGM.

R.B. Vellacott

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SUPPORTING INFORMATION FOR THE NOTICE OF MOTION TO OPPOSE ANY INCREASE OF LICENSED GAMING IN DEVONPORT –

Mayor Councillors and Electors the following is but a very brief résumé of what has been proven as a most hideous problem in many sections of our society.

It is well documented that poker machines and casinos are a proven blight on any community. The professional gambler David Walsh says he despises the pokies, and considers them "*antisocial, unsightly and insidious*".

There are enough reports of crime, domestic violence and child neglect as it is and we don't need our politicians and local government condoning an increase in these problems through supporting more potential poker machine addiction in our community.

For the council to support or encourage any increase of licensed gaming venues or increase the number of devices that would siphon off funds which would otherwise be spent in the community would make a mockery of their contention that one of the main reasons for the Living City project when completed was to inject funds into Devonport.

In Devonport the average loss in recent years per adult was approx. \$645 and the total annual loss was approx \$12 million. With those types of losses that's a lot of money going out of the city into somebody else's pocket where it could be better spent within the community.

Recent research indicates:-

Electronic Gaming Machines / "Pokies" are built for addiction

"The anticipation of playing hits the pleasure centre of the brain with the same force as cocaine or ice,"

In 2019 net Gambling Revenue per EGM, Tasmanian LGAs LGA NGR/EGM Factor was - Burnie \$64,512 1.4 Central Coast \$50,416 1.1 Clarence \$54,237 1.2 Combined Municipalities* \$36,899 0.8 **Devonport \$46,151 1.0** Dorset \$30,976 0.7 Glenorchy \$74,589 1.6 Hobart \$36,589 0.8 Launceston \$46,146 1.0 Northern Midlands \$25,428 0.5 Sorell \$32,208 0.7 Waratah/Wynyard \$47,904 1.0 West Coast \$28,705 0.6 West Tamar \$33,072 0.7 Tasmania \$46,486 1.0

Whilst it is concerning, banning pokies would not stop gambling problems however every effort must be made to restrict the number of the devices and the easy access to them.

Unfortunately, time and time again, we find many politicians of all stripes and colours, losing sight of their moral compasses on important social issues and hopefully our councillors, knowing that Devonport has a large population of socially and economically vulnerable people will have the moral strength to oppose any increase of gaming licenses, now and in the future.

R.B. Vellacott



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2 November 2021

Mr B Vellacott
11 Cocker Place
DEVONPORT TAS 7310

Dear Mr Vellacott

Response to Question on Notice to the AGM – 8 November 2021

I refer to your question on notice provided for the 2021 Annual General Meeting and provide the following response:

- Q1.** Mayor and Councillors will you give an indication to the ratepayers and citizens of Devonport as to whether or not you would support, in any way whatsoever-
- (a) an application made to the Liquor and Gaming Commission, to permit any licensed gaming of any form in any new buildings in Devonport and or increase expansion in existing premises?
 - (b) a person seeking to obtain a licence to install and or manage licensed gaming machines?

Response

The matters you raise have not been previously considered by this Council. Should your motion regarding gaming be successful, Council would then consider the item at its next ordinary meeting.

Matthew Atkins
GENERAL MANAGER



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