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**City of Onkaparinga**  
**Minutes of the Council meeting**  
**held on 15 May 2018**

**Venue:** Council Chamber, Civic Centre  
Ramsay Place, Noarlunga Centre

**Meeting commenced:** 7pm

**Present:** Mayor L F Rosenberg  
Cr M Bray  
Cr S Brown (arrived 7.23pm left 11.48pm)  
Cr D Chapman (left 11.44pm)  
Cr J Deakin  
Cr H Greaves  
Cr G Hennessy  
Cr R Holtham  
Cr W Jamieson  
Cr G Kilby  
Cr L Nicholls  
Cr G Olbrich  
Cr D Parslow  
Cr P Schulze (left 10.23pm)  
Cr N Swann  
Cr M Themeliotis  
Cr H Wainwright

**Apologies:** Cr W Olsen  
Cr S Brown (lateness)

**Leave of absence:** Cr H Merritt  
Cr J Gunn

**Absent:**

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**Pledge:**

*We recognise this City's considerable natural and cultural heritage, including thousands of years of traditional ownership by Kurna, and the more recent contribution from people either born here or who have migrated here. As we meet together, we build on this heritage by respecting and listening to each other, thinking clearly, being receptive to new ideas, speaking honestly, and deciding wisely for the current and future well-being of those we serve.*

**1. Opening of meeting**

Mayor Rosenberg officially declared the meeting open at 7pm.

**2. Confirmation of minutes.**

*Cr Greaves MOVED that the minutes of the proceedings of the Council meeting held on 17 April 2018 be received and confirmed as an accurate record of those proceedings.*

*Seconded by Cr Themeliotis.*

*CARRIED*

**3. Adjourned business**

Nil.

**4. Leave of absence**

Nil.

**5. Mayor's Communication**

**5.1 Mayor's Report 15 May 2018**

**China recycling waste**

I attach for your information the Local Government Association media release on the impact of China's National Sword policy on SA's recycling sector and Australian Local Government Association President David O'Loughlin's recent comments, attachment 1.

**On-site visits**

Several councillors have taken up the opportunity to come along to some of the on-site visits around the council area. The last two were at the South Adelaide Football Club and Community Living Australia on Beach Road. These visits are a great opportunity to learn more about facilities and services and most importantly the groups' aspirations.

**World Heritage Bid Research**

I had the opportunity to participate in research work around the value of World Heritage listing for our region being conducted by Kristal Buckley from Deakin University. Our bid did not get solid state government support in the lead up to our

nomination to the Federal Government's last call. We now need to work towards a range of research areas to back the bid more strongly.

### **Regional Development Australia (RDA)**

Following the Federal Government's long review of RDAs in Australia, it is pleasing to note that the form of South Australia's RDAs will not change. A new Chair has been appointed to our Adelaide Hills, Fleurieu and Kangaroo Island Board. He is James Sexton and he replaces Mayor Ann Ferguson. We wish him well for his term.

### **History Festival 2018**

I represented the City of Onkaparinga at an event – "Henry Scroop – His Life and Times" at Cherry Gardens Church, Hicks Hill Road on Sunday 6 May, along with Cr Parslow.

This event was the launch of the above book by Garry and Janet Scroop.

This is a remarkably well researched and illustrated record of the settlement of Cherry Gardens and the life of Henry Scroop.

A copy of the book was kindly presented to me for the City of Onkaparinga and will be donated to the library for everyone's enjoyment.

### **Flagstaff Hill Art Show**

The Rotary Club of Flagstaff Hill conducted another successful Art Exhibition during the recent school holidays. As usual I opened the Exhibition and along with staff chose 3 paintings to add to the City's art collection. These funds were from the arts budget and used annually to add pieces to the collection. The three pieces will be on display throughout our City in various locations.

### **Morton Road Reserve**

I have recently written to both the Premier and Treasurer with a co-signed letter with Roger Rasheed, to enquire about the status of funding for the above reserve development, attachment 2. You will recall that council, state government and the Roger Rasheed Sports Foundation were in negotiation to deliver a \$5m sport and recreation facility at Morton Road.

Of this \$3.2m was a state contribution. It is imperative we continue to obtain this commitment.

### **Seaford Meadows – Hickinbotham Development**

Council have considered the report sent to it from the approving authority – State Commission Assessment Panel. There has been considerable Facebook traffic misquoting letters and council's views on this matter.

To avoid any further confusion I attach the letter dated 30 April 2018 and staff comments, attachment 3.

### **Aldinga Washpool**

Over the past few months Council has been working to consolidate various parcels of land over the Aldinga Washpool Wetland and I have written to The Hon David Speirs MP to brief him, attachment 4.

## Ministerial Correspondence

I have recently written letters of congratulations and to request meetings with The Hon David Ridgway MLC, The Hon Tim Whetstone MP and The Hon Corey Wingard MP, attachment 5.

## ANZAC Day

Council was represented at most sites this year and I sincerely thank all who attended a service on my behalf. I have attached a thank you letter received from the RSL Morphett Vale and District Sub-Branch Inc. attachment 6.

I was invited to speak at The Sands Lifestyle Village on ANZAC Day and was very happy to be given a poem written by resident Tony Plowright. It is a very moving and beautiful poem which I would like to share with you, attachment 7.

## Mayor's calendar

My activities from 14 April to 11 May 2018 are reflected in Attachment 8.

Thank you to the following Elected Members who represented me during this period.

25 April	ANZAC Day Services: Cherry Gardens Blackwood (Youth Vigil) Clarendon Flagstaff Hill Kangarilla Morphett Vale Port Noarlunga Willunga	Deputy Mayor Cr Themeliotis Cr Parslow Cr Brown Deputy Mayor Cr Parslow Cr Gunn Cr Wainwright
27 April	Naming Ceremony of Replacement Vessel for Flotilla Six O'Sullivan Beach	Deputy Mayor
28 April	Christies Beach Surf Life Saving Club Annual Awards	Deputy Mayor
29 April	Happy Valley Bowling Club Presentation Day	Deputy Mayor

Thank you.



Lorraine Rosenberg

## Mayor

*Cr Kilby MOVED that the Mayor's Report is noted by Council.*

*Seconded by Cr Greaves.*

**CARRIED**

**6. Presentation**

Nil.

**7. Deputation**

**7.1 Members of the Youth and Community in Conservation Action Group (YACCA) re Cat Registration**

Members of the Youth and Community Conservation Action Group gave a deputation and answered questions from elected members in relation to Cat Registration within the City of Onkaparinga.

**7.2 Greg Pattinson – Foodbank SA**

Greg Pattinson gave a deputation and answered questions from elected members in relation to Foodbank SA request for financial assistance for the establishment of a Foodbank Hub in the Christies Beach area.

Cr Brown entered the meeting at 7.23pm.

**7.3 Neill Sharpe – South Adelaide Football Club Female Facilities**

Neill Sharpe gave a deputation and answered questions from elected members in relation to funding sought for a new female friendly change room facility at Hickinbotham Oval.

Cr Themeliotis declared a perceived conflict of interest as a Staffer of Office for Recreation, Sport and Racing. Cr Themeliotis stated she would receive no benefit or detriment, direct or indirect, personal or pecuniary and that no decision will be made as it is a deputation.

Cr Holtham declared a perceived conflict of interest as a member of the Women's Committee of the SAFC. Cr Holtham stated she would leave if necessary should the item arise in the meeting.

**8. Presentation by Committee Chairpersons and reports to Council by Council Committees.**

**8.1 Strategic Directions Committee meeting minutes of 1 May 2018**

*MOVED Cr Parslow.*

*That Council note the minutes of the Strategic Directions committee meeting held on 1 May 2018 as attached to the agenda report.*

*Seconded by Cr Swann.*

*CARRIED*

## **8.2 Audit, Risk, Value and Efficiency Committee meeting minutes 7 May 2018**

*MOVED Cr Kilby.*

*That Council note the minutes of the Audit, Risk, Value and Efficiency Committee meeting held on 7 May 2018 as attached to the agenda report.*

*Seconded by Cr Jamieson.*

*CARRIED*

## **8.3 Civic Awards Committee meeting minutes of 7 May 2018**

*MOVED Cr Hennessy.*

### *1. Re item 3.1 Key to the City nomination*

*That Council award the City of Onkaparinga Key to the City to Ritchie Porte for his exceptional and outstanding achievement to the community in the area of sport.*

### *2. That Council note the minutes of the Civic Awards Committee meeting held on 7 May 2018 as attached to the agenda report.*

*Seconded by Cr Parslow.*

*CARRIED*

Cr Jamieson left his seat in the Chamber at 7.46pm.

Cr Jamieson resumed his seat in the Chamber at 7.48pm.

## **9. Reports of officers**

### **9.1 Petition - resurfacing Bellavista Road**

*MOVED Cr Themeliotis.*

#### *1. That Council resolve that the Bellavista Road Spray Seal continues to be monitored while curing.*

#### *2. That Council resolve that should the performance of the road not be achieved by its final completion date of 20 December 2018 a further report be provided to Council highlighting treatments to rectify.*

#### *3. That Council note the asset principles provided for the management of our sealed road network and that we continue with the current practices to determine reseal treatment selection utilising the various reseal treatment options including:*

- Rejuvenation*
- Spray Seal*
- Microsurfacing*
- Asphalt*

#### *4. That the head petitioner be advised of Council's decision.*

*Seconded by Cr Hennessy.*

*CARRIED*

## **9.2 Update report on the proposal to commence a road closing process over unmade roads at Cherry Gardens**

Cr Hennessy left his seat in the Chamber at 7.57pm.

Cr Hennessy resumed his seat in the Chamber at 7.59pm.

*MOVED Cr Chapman.*

*That for the two surveyed legal and unmade public roads proposed for closure and disposal adjoining Mahar and Frith Roads at Cherry Gardens, and bordered in red and green on attachment 1 to the agenda report, Council:*

- a. Notes that one written response was received as a result of the public consultation process, objecting to the closure of the road bordered in red on attachment 1 (no objection was received to the closure and disposal of the road bordered in green on attachment 1 to the agenda report).*
- b. Having considered the sole objection received, resolves to proceed with the process to close and dispose of the subject unmade road marked in green only on the basis that:*
  - initial internal investigations did not identify any strategic or operational need to justify retention of the road land,*
  - further internal investigations did not identify any need to retain the road land for the trails network,*
  - the Scott Creek Conservation Park administered by the Department of Environment, Water and Natural Resources (DEWNR) abuts the southern boundary of the road proposed to be closed and disposed. DEWNR has advised that it has no interest in acquiring the subject roads for inclusion into the Scott Creek Conservation Park (The Park), however recommends preservation of the vegetation within the road corridors as habitat for native species (This was addressed by the approval for a Land Management Agreement in Council's approval on 13 December 2016). DEWNR further notes that the western end of the park has sufficient suitable access from Frith Road to the south and as such they do not oppose the closure and disposal of the subject unmade roads,*
  - the adjoining land owners have occupied the subject road for a number of decades for stock grazing purposes,*
  - on balance our assessments indicate that the maximum benefit to council and the community may be realised through a sale of the road, which will enable net income to be used for future strategic acquisitions and other projects and will also result in the removal of ongoing risk liability.*
- c. Pursuant to Sections 14 and 15 of the Roads (Opening and Closing) Act 1991, having considered the objection in attachment 2 to this agenda report received during the public consultation process, approves to proceed with the closure and disposal of the subject public roads bordered in green on attachment 1 to this agenda report, being unmade road adjoining Mahar and Frith Roads at Cherry Gardens and authorises the making of a Road Process Order.*

*Seconded by Cr Deakin.*

*Cr Parslow MOVED an AMENDMENT*

*That for the two surveyed legal and unmade public roads proposed for closure and disposal adjoining Mahar and Frith Roads at Cherry Gardens, and bordered in red and green on attachment 1 to the agenda report, Council:*

- a. *Notes that one written response was received as a result of the public consultation process, objecting to the closure of the road bordered in red on attachment 1 (no objection was received to the closure and disposal of the road bordered in green on attachment 1 to the agenda report).*
- b. *Having considered the sole objection received, resolves to proceed with the process to close and dispose the subject unmade roads on the basis that:*
  - *initial internal investigations did not identify any strategic or operational need to justify retention of the road land,*
  - *further internal investigations did not identify any need to retain the road land for the trails network,*
  - *the Scott Creek Conservation Park administered by the Department of Environment, Water and Natural Resources (DEWNR) abuts the southern boundary of the road proposed to be closed and disposed. DEWNR has advised that it has no interest in acquiring the subject roads for inclusion into the Scott Creek Conservation Park (The Park), however recommends preservation of the vegetation within the road corridors as habitat for native species (This was addressed by the approval for a Land Management Agreement in Council's approval on 13 December 2016). DEWNR further notes that the western end of the park has sufficient suitable access from Frith Road to the south and as such they do not oppose the closure and disposal of the subject unmade roads,*
  - *existing access to the Scott Creek Conservation Park is located less than 500m from the subject road (via Frith Road),*
  - *the adjoining land owners have occupied the subject roads for a number of decades for stock grazing purposes,*
  - *on balance our assessments indicate that the maximum benefit to council and the community may be realised through a sale of the road, which will enable net income to be used for future strategic acquisitions and other projects and will also result in the removal of ongoing risk liability.*
- c. *Pursuant to Sections 14 and 15 of the Roads (Opening and Closing) Act 1991, having considered the objection in attachment 2 to this agenda report received during the public consultation process, approves to proceed with the closure and disposal of the subject public roads bordered in red and green on attachment 1 to this agenda report, being unmade roads adjoining Mahar and Frith Roads at Cherry Gardens and authorises the making of a Road Process Order.*

*Seconded by Cr Greaves.*

Cr Wainwright left her seat in the Chamber at 8.12pm.

Cr Wainwright resumed her seat in the Chamber at 8.15pm.

*The AMENDMENT was PUT and LOST.*

**CARRIED.**

### **9.3 Proposed sale of a portion of council reserve land O'Sullivan Beach**

*MOVED Cr Deakin.*

*That for the council owned land described as portion of Allotment 1 in Filed Plan 4762, comprised in Certificate of Title Volume 5836 Folio 402 and bordered in red on attachment 1 to this agenda report, Council:*

- 1. Declares 'in principle' that the subject council owned land is surplus to requirements and potentially suitable for disposal to one of the two adjacent landowners.*
- 2. Approves the commencement of the process to revoke the land from its community land classification by undertaking public consultation in accordance with the provisions of subsection 194 (2) (b) of the Local Government Act 1999*
- 3. Requests a further report be presented to Council following the outcome of the public consultation phase of the revocation process.*

*Seconded by Cr Jamieson.*

*CARRIED*

### **9.4 Recreation Centres Funding**

Cr Wainwright declared a perceived conflict of interest as a current member of the Aldinga Recreation Centre. Cr Wainwright stated she would receive no benefit or detriment, direct or indirect, personal or pecuniary from considering and voting on this matter and chose to remain in the meeting.

*MOVED Cr Hennessy.*

- 1. That Council:*
  - a. Notes that the recreation centres are not a commercial operation and approves that funding be provided via rates from 2018-19 rather than the Commercial Activity Reserve, resulting in an approximate 0.76% rates increase for 2018-19. This will fund the projected operating loss of \$708,000 and provide an additional \$245,000 for operational building maintenance.*
  - b. Approves an additional \$450,000 from the Commercial Activity Reserve to be used to fund building compliance, urgent repair and capital works for 2018-19.*
  - c. Notes an immediate review of the current centre management methodology with the impending expiry of current management agreements by 30 June 2018.*
  - d. Notes a comprehensive service review of the recreation centres will be undertaken in 2018-19 to provide direction on the provision and location of recreation facilities and services.*

*Seconded by Cr Deakin.*

*CARRIED*

Cr Wainwright voted for the motion.

The majority of members entitled to vote at the meeting voted for the motion.

## 9.5 State Election Priorities Summary Update

*MOVED Cr Bray.*

*That Council note the report, including the new state government's pre-election commitments to our region.*

*Seconded by Cr Themeliotis.*

Cr Chapman left his seat in the Chamber at 8.46pm.

*CARRIED*

## 9.6 Place naming proposal - Nurlu Karrangka Reserve, Noarlunga Downs

Cr Chapman resumed his seat in the Chamber at 8.47pm.

*MOVED Cr Deakin.*

1. *That council undertakes community engagement on the place name 'Nurlu Karrangka Reserve' for the land described as*
  - a) *Allotment 84 in Deposited Plan 19342, comprised in Certificate of Title Volume 5546 Folio 139*
  - b) *Allotment 51 in Deposited Plan 11059, comprised in Certificate of Title Volume 5654 Folio 185*
  - c) *Allotment 248 in Deposited Pan 11328, comprised in Certificate of Title volume 5654 Folio 186*
  - d) *Allotment 45 in Deposited Plan 11385, comprised in Certificate of Title volume 5517 Folio 705*
  - e) *Allotment 45 in Deposited Plan 23636, comprised in Certificate of Title volume 5841 Folio 669*
  - f) *Allotment 3041 in Deposited Plan 56101, comprised in Certificate of Title volume 5842 Folio 324*  
*located between River Road, Garland Road, Alnwick Court, Morella Court, Kalisz Court and Kerley Way in Noarlunga Downs.*
2. *A report be presented to Council on the place naming community engagement outcomes for a Council decision.*

*Seconded by Cr Swann.*

*Cr Kilby MOVED that the meeting proceed to the next business.*

*Seconded by Cr Greaves.*

*LOST*

*The MOTION was LOST on the Mayor's casting vote.*

At 9.05pm Mayor Rosenberg sought and was granted leave of the meeting for a 10 minute break.

Mayor Rosenberg reconvened the meeting in the Chamber at 9.20pm with all members present that were present before the adjournment.

## 9.7 History and Heritage Awards

*MOVED Cr Bray.*

*That Council:*

1. *Endorses the following winners for the 2018 History and Heritage Awards:*

<b>Categories</b>	<b>Winners</b>
<i>Heritage Places – restoration and conservation</i>	<i>57 Kays Road, McLaren Vale</i>
<i>Heritage Places – additions and alterations</i>	<i>Allot 102 Sec 301 Potter Road, Clarendon</i>
<i>Heritage Places – Adaptive re-use</i>	<i>575 California Road, Tatachilla</i>
<i>Traditional Building Skills</i>	<i>Warwick Oakley and Keith Palmer for weighbridge restoration at 57 Kays Road, McLaren Vale</i>

2. *Endorses the commendation for 371 Plains Road, Sellicks Hill to acknowledge their commitment in preserving a historically important building.*

*Seconded by Cr Themeliotis.*

**CARRIED**

## 9.6 Place naming proposal - Nurlu Karrangka Reserve, Noarlunga Downs

*Cr Brown MOVED*

1. *Review the open space Strategic Management Plan for parcel of land identified:*
  - a) *Allotment 84 in Deposited Plan 19342, comprised in Certificate of Title Volume 5546 Folio 139*
  - b) *Allotment 51 in Deposited Plan 11059, comprised in Certificate of Title Volume 5654 Folio 185*
  - c) *Allotment 248 in Deposited Pan 11328, comprised in Certificate of Title volume 5654 Folio 186*
  - d) *Allotment 45 in Deposited Plan 11385, comprised in Certificate of Title volume 5517 Folio 705*
  - e) *Allotment 45 in Deposited Plan 23636, comprised in Certificate of Title volume 5841 Folio 669*
  - f) *Allotment 3041 in Deposited Plan 56101, comprised in Certificate of Title volume 5842 Folio 324*
2. *Review the place naming policy and place naming procedure to enable the community to suggest names for a public place through the community engagement process.*
3. *The outcome of the review be reported back to the July meeting of Council.*

*Seconded by Cr Bray.*

**CARRIED**

## 9.8 Synthetic pitch O'Sullivan Beach Sport Ground

*MOVED Cr Deakin.*

*That Council:*

1. *Note land owner consent has been conditionally granted for the Football Federation of South Australia (FFSA) to construct a synthetic pitch, fencing and match lighting at the O'Sullivan Beach Sports Ground.*
2. *Approve:*
  - a. *\$100,000 of the existing allocated funding budgeted in the contingency reserve to construct retaining walls at the O'Sullivan Beach Sports Ground allowing for senior soccer pitches and a junior cricket oval.*
  - b. *Up to \$350,000 of the existing allocated funding budgeted in the contingency reserve to be used in partnership with the proposed FFSA funding of up to \$250,000 to construct a new four room unisex change facility at the Port Noarlunga South (Seaford) soccer complex.*

*Seconded by Cr Holtham.*

*Cr Kilby MOVED that the item be adjourned until the next Council meeting for additional information to be provided regarding soccer pitches at O'Sullivan's Beach.*

*Seconded by Cr Bray.*

*CARRIED*

## 9.9 Quarterly financial update incorporating Budget Review 3

Mayor Rosenberg declared a perceived conflict of interest as President of Local Government Association. Mayor Rosenberg stated she would receive no benefit or detriment, direct or indirect, personal or pecuniary from considering and voting on this matter and chose to remain in the meeting.

*MOVED Cr Kilby.*

1. *That Council note the quarterly financial update provided in this report and attachment 1 to this report, specifically noting the following:*
  - *the impact of Budget Review 3 for 2017-18 is a net funding surplus of \$1,055,648 which is proposed to be transferred to the Contingency Reserve resulting in a balanced Funding Statement*
  - *Council decisions, operational and external factors to Budget Review 3 have resulted in significant variations equivalent to a 0.45% rate increase for the 2018-19 Budget. Further budget movements discussed at the 2018-19 Budget briefing on 10 April 2018 have resulted in further variations equivalent to a 1.40% rate increase.*
2. *That Council adopt the proposed 2017-18 Budget incorporating Budget Review 3 outcomes as discussed in this report and presented at attachments 1 and 2 to the agenda report.*

*Seconded by Cr Jamieson.*

*CARRIED*

The Mayor does not have a deliberative vote at Council meetings, therefore did not cast a vote.

## 9.10 Draft Budget 2018-19 for community engagement purposes

*MOVED Cr Hennessy.*

1. *That Council approve the draft Budget 2018-19 for community engagement purposes as presented in this report and its attachments that incorporates:*
  - a. *a general rate increase of 1.85 per cent*
  - b. *the Value Added activities and associated budgets presented in attachment 2 to the agenda report.*
  - c. *the New Asset and Significant Upgrade projects and associated budgets presented in attachments 3 and 4 to the agenda report.*
  - d. *a Community Wastewater Management Systems service charge increase of 24.3 per cent and a service charge rebate of 16.8 per cent resulting in a net CWMS increase of 7.5 per cent.*

*Seconded by Cr Kilby.*

*At 10.12pm Cr Jamieson MOVED that the meeting continue until the conclusion of business.*

*Seconded by Cr Deakin.*

*CARRIED*

Cr Greaves left her seat in the Chamber at 10.16pm.

Cr Parslow left his seat in the Chamber at 10.17pm.

Cr Brown left her seat in the Chamber at 10.18pm.

Cr Parslow resumed his seat in the Chamber at 10.19pm.

*CARRIED*

Cr Greaves resumed her seat in the Chamber at 10.20pm.

Cr Kilby called a DIVISION and the decision was set aside.

*For:*

<i>Cr Nicholls</i>	<i>Cr Chapman</i>	<i>Cr Deakin</i>	<i>Cr Kilby</i>	<i>Cr Hennessy</i>
<i>Cr Themeliotis</i>	<i>Cr Wainwright</i>	<i>Cr Parslow</i>	<i>Cr Greaves</i>	<i>Cr Swann</i>
<i>Cr Jamieson</i>	<i>Cr Schulze</i>	<i>Cr Holtham</i>	<i>Cr Olbrich</i>	

*Against:*

<i>Cr Bray</i>				
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*CARRIED*

### **9.11 Review of Rating Policy 2018-19 including initial modelling**

Cr Chapman left his seat in the chamber at 10.21pm.

*MOVED Cr Greaves.*

1. *That Council note the rate modelling discussed in the agenda report and presented in attachments 3, 4, 5, 6, and 7 to the agenda report.*
2. *That Council approve the draft Rating Policy 2018–19 (attachment 1 to the agenda report) for community engagement purposes including:*
  - *fixed charge of \$475*
  - *residential rate capping at 10%.*
3. *That Council approve the draft Rate Rebate Policy 2018–19 (attachment 2 to the agenda report) for community engagement purposes.*

*Seconded by Cr Wainwright.*

Cr Brown resumed her seat in the Chamber at 10.22pm.

*CARRIED*

### **9.12 Caretaker Policy 2018**

*MOVED Cr Greaves.*

1. *That Council adopt the Caretaker Policy as presented at attachment 1 to the agenda report.*
2. *That Council note that the 'election period' commences at 12 noon on Tuesday, 18 September 2018, at which time the application of the Caretaker Policy for elected members and the administration will apply.*

*Seconded by Cr Kilby.*

Cr Schulze left the meeting at 10.23pm.

*CARRIED*

### **9.13 Legal Services Summary**

*MOVED Cr Hennessy.*

*That Council note the agenda report and the summary of legal services received, as attached to the agenda report.*

*Seconded by Cr Wainwright.*

Cr Chapman resumed his seat in the Chamber at 10.24pm.

*CARRIED*

#### **9.14 Elected Member allowances and benefits**

*MOVED Cr Themeliotis.*

*That Council note the agenda report and the Elected Members Allowances and Benefits Register extract as attached to the agenda report.*

*Seconded by Cr Chapman*

*CARRIED*

#### **9.15 Elected member application to attend conference - National General Assembly of Local Government 2018**

Cr Kilby declared a material conflict of interest as the item relates to an application for Cr Kilby to attend the National General Assembly of Local Government 2018 conference and left the meeting at 10.26pm.

*MOVED Cr Greaves.*

*That Council approve the attendance and associated costs as detailed in the agenda report as per the Elected member allowance, benefits and support procedure 2014 for Cr Kilby to attend the National General Assembly of Local Government 2018 – Australia's Future, Make it Local conference in Canberra from 17-20 June 2018.*

*Seconded by Cr Chapman.*

*CARRIED*

Cr Kilby resumed her seat in the Chamber at 10.28pm.

#### **9.16 Council and Committee Reporting Schedule**

*MOVED Cr Greaves.*

*That Council note the agenda report and Reporting Schedule at attachment 1 to the agenda report.*

*Seconded by Cr Holtham.*

*CARRIED*

### **10. Nominations to external bodies**

Nil.

### **11. Questions on Notice**

#### **11.1 Cr Brown – FBT**

##### **Background**

The issue of corporate card expenditure by council has been the subject of considerable community speculation and has tarnished the reputation of the City of Onkaparinga.

At the last council meeting a statement was made that the Auditor General has completed his investigation and that council was cleared.

## Questions

1. Can the report from the Auditor General be tabled so elected members are aware of the content?

*We understand that the Auditor General Office made enquiries to all South Australian council's relating to credit card arrangements. The City of Onkaparinga provided a comprehensive response, no further enquiry from the Auditor General's office has been received.*

2. Can you please advise if this outcome included corporate purchases on credit cards?

*Please see above.*

## FBT

1. Can you advise how much fringe benefits tax is paid by council for cars provided to staff which is used for travel to and from work?

*Please find below the FBT paid for consecutive years for cars*

	<i>FBT Payable</i>
<i>2014/15</i>	<i>\$563,967.17</i>
<i>2015/16</i>	<i>\$626,434.41</i>
<i>2016/17</i>	<i>\$611,456.79</i>

*Please find below the FBT paid for consecutive years for light commercial vehicles*

	<i>FBT Payable</i>
<i>2014/15</i>	<i>\$27,455.76</i>
<i>2015/16</i>	<i>\$21,578.28</i>
<i>2016/17</i>	<i>\$23,561.16</i>

2. How is this cost measured?

*The City of Onkaparinga currently uses the statutory formula method when calculating car fringe benefits, in accordance with the Australian Tax Office requirements, using the capital cost and a statutory rate of 20% regardless of kilometres travelled. The statutory formula is calculated as follows:*

$$\text{Taxable Value} = \frac{(A \times B \times C)}{D} - E$$

*D*

*A = the base value of the car*

*B = the applicable statutory percentage*

*C = the number of days in the FBT year when the car was available for private use of employees*

*D = the number of days in the FBT year*

*E = the employee contribution*

*For light commercial vehicles with additional private use (beyond travel to and from home) the City of Onkaparinga applies the following rates, in accordance with the Australian Tax Office requirements (Employee contributions provide a direct offset to FBT):*

<b><i>Engine capacity</i></b>	<b><i>Rate per kilometre</i></b>
<i>0 – 2500cc</i>	<i>53 cents</i>
<i>Over 2500cc</i>	<i>63 cents</i>

3. How many cars (not commercial trucks and heavy equipment vehicles) does council own/lease?

*As of today we have 107 vehicles under the definition of a car for FBT purposes of this 87 that attract FBT.*

***For fringe benefits tax (FBT) purposes, a car is any of the following:***

- a sedan or station wagon*
- any other goods-carrying vehicle with a carrying capacity of less than one tonne, for example a panel van or utility (including four-wheel drive vehicles)*
- any other passenger-carrying vehicle designed to carry fewer than nine passengers*

***For fringe benefits tax (FBT) purposes, a commercial vehicle is not a car because they are designed to carry a load of one tonne or more, or more than eight passengers. The vehicle type may be:***

- single cab utes*
- dual cab vehicles*
- four wheel drives and wagons*
- panel van*

*Under the definition of a light commercial (non-cars,) we have 55 vehicles of this 7 attract FBT.*

4. How many cars are pooled for council use during work hours?

***Cars***

*102*

*Of the 102 vehicles that are available for council use during work hours*

- 29 are operational vehicles (allocated to team/role for daily work use)*
- 73 are pool vehicles (available for staff to book and use for work use only)*

***Light commercial vehicles***

*All 55 vehicles are operational vehicles for council use during work hours*

5. How many of council owned/leased cars are for council use only?

**Cars**

- *19 vehicles stay locked up in Council yard overnight.*
- *16 vehicles that are made available for commuter use only (travel between work and home only, no private use).*

**Light commercial vehicles**

- *27 vehicles stay locked up in council yard overnight.*
- *21 vehicles that are made available for commuter use only (travel between work and home only, no private use, start onsite rather than from a depot).*

6. How many of council owned/leased cars have full use 24x7 unlimited use = holidays, long service leave and family use.

*61 cars (Category 1 & 2 - Directors, Managers and Team Leaders/Senior Officers) the degree of private use and employee contribution is managed through individual employment conditions which may differ.*

**This response has been provided by the Director of City Operations and the Director of Corporate and City Services.**

## 11.2 Cr Chapman – Actions in relation to media and social media

### Background

1. The City of Charles Sturt "Council Member Advice Legal" Reference number 1.11, Type: Council Policy. Category: Council Members, states the following:

*"Council will not provide access to legal advice or pay for or reimburse the legal costs of individual Council Members in relation to the initiation of defamation proceedings by a Council Member. Not only is there a lack of statutory authority for the Council to incur such expenditure but such action generally relates to the reputation of an individual and not to the Council itself, regardless of the fact that the alleged damage to the reputation of the individual has occurred as a result of holding public office as a Council Member."*

Yet the Administration's media statement of 3 May 2018 states: *"The amount council spends on this and any future similar action is in the hands of anyone who publishes commentary that is bullying, harassing or defamatory."*

### Questions

- a. Why is the Charles Sturt policy position contrary to the current position of the City of Onkaparinga?

*The position is not contrary. The City of Charles Sturt has resolved a specific policy position for its own needs. Our Council has not determined a policy position relating to financial support for Elected Members relating specifically to defamation action.*

- b. What statutory authority does the administration claim it can use to initiate defamation proceedings on behalf of staff or elected members in relation to recent events in the media and social media?

*The letter sent to the Facebook page was to ensure that the administrators were aware of the legal issues that may arise when administering a platform that allows for opinion based commentary.*

*Procedurally, while the Council, as a corporate entity, is unable to take action as an entity in defamation, action can be taken by an aggrieved party in their personal/private capacity. In appropriate circumstances the Council is able to provide support for staff and Elected Members (as an aggrieved party) by reference to sections 36 and 137 of the LG Act and the specific and general duties under sections 19 and 20 of the WHS Act. "Support" in that context includes financial contribution to the action. Of course, any action that may be commenced under the Defamation Act would be required to be with the consent of the aggrieved party.*

*Actions arising under the WHS legislation are the responsibility of the CEO.*

*However, actions arising under the Defamation Act are an individual's decision, and if that individual was an elected member who was seeking financial assistance from the Council due to the nature of the defaming act, then this would be referred to the Chamber for decision due to the Council currently not having a policy on this issue regarding legal costs support for elected members. Financial support for staff relating to an action in defamation due to an act arising from the council environment would remain at the discretion of the CEO in accordance with administrative policy.*

- c. What is that authority and has it been tested in a court of law by a local government in South Australia?

*See response to b. above.*

*There have been a number of instances where proceedings have been filed against persons for publications pertaining to the performance of a role as an elected member (under the Defamation Act 2005) in both the Magistrates Court and District Court of South Australia.*

- d. Why hasn't the administration consulted with and sought authority from its elected members before sending letters to Onkaparinga Council Watch and the media claiming bullying, harassment and defamation?

*See response to (b) above.*

*This has been an operational matter to date. The action taken to date has been within the responsibilities of the CEO, pursuant both the Local Government Act 1999 and the Work Health and Safety Act 2012.*

*The management of the matter to date (in particular the sending of letters) is not within the role and responsibilities of the elected member body. If further action is necessary, depending on what is proposed, it may indeed be required to be presented to the Chamber for decision - depending on the circumstances and the nature of the proposed action. Otherwise, as has occurred in this instance, elected members will be kept informed.*

2. How much in total was spent by the administration in legal fees to oppose the Freedom of Information application by Mr John Houlahan into Credit Card Purchases since he first applied?

*The administration did not oppose the FOI application lodged by Mr Houlahan relating to credit card purchases, and therefore no legal advice was sought.*

**This response was provided by the Manager, Governance.**

## 12. Motions

### 12.1 Notice of Motion to Revoke a Resolution – Cr Parslow re Cr Jamieson re Council Expenditure.

*MOVED Cr Parslow.*

*That the following resolution of Council of 20 February 2018 entitled 12.3 Notice of Motion – Cr Jamieson re Council Expenditure*

*That Council delegate to the CEO the set up of an independent enquiry, which may be by the Ombudsman or a not for profit organisation, into allegations by this Today Tonight and the Messenger Press of inappropriate expenditure by Council management.*

*In particular were the expenditure items aired by the two agencies inappropriate in a Local Government environment*

*Changes if any, that need to be set in place to make sure Councils expenditure is appropriate for a local government?*

*Be revoked.*

*Seconded by Cr Greaves.*

**CARRIED**

Cr Chapman called a DIVISION and the decision was set aside.

*For:*

<i>Cr Nicholls</i>	<i>Cr Bray</i>	<i>Cr Deakin</i>	<i>Cr Kilby</i>	<i>Cr Hennessy</i>
<i>Cr Themeliotis</i>	<i>Cr Wainwright</i>	<i>Cr Parslow</i>	<i>Cr Greaves</i>	<i>Cr Olbrich</i>

*Against:*

<i>Cr Brown</i>	<i>Cr Chapman</i>	<i>Cr Swann</i>	<i>Cr Jamieson</i>	<i>Cr Holtham</i>
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**CARRIED.**

### 12.2 Notice of Motion – Cr Wainwright re Seismic testing in the Great Australian Bight.

*MOVED Cr Wainwright.*

*That the Mayor, Lorraine Rosenberg, representing the Onkaparinga Council, write to the State and Federal Governments and the Senate Standing Committee on Environment and Communications opposing the seismic testing and all future offshore petroleum activities in the Great Australian Bight, due to the risk of damage to our coastal environment.*

*Seconded by Cr Kilby.*

**CARRIED**

### 12.3 Notice of Motion - Cr Bray re Noting of report on Clarendon CWMS Costings

*MOVED Cr Bray.*

*That council notes the report and further notes that Cr Bray will be seeking feedback on a future motion to assess value in contracts.*

*Seconded by Cr Themeliotis.*

Cr Wainwright left her seat in the Chamber at 11.23pm.

Cr Wainwright resumed her seat in the Chamber at 11.25pm.

*LOST*

Cr Bray called a DIVISION and the decision was set aside.

*For:*

<i>Cr Bray</i>	<i>Cr Brown</i>	<i>Cr Deakin</i>	<i>Cr Kilby</i>	<i>Cr Themeliotis</i>
<i>Cr Holtham</i>				

*Against:*

<i>Cr Nicholls</i>	<i>Cr Chapman</i>	<i>Cr Hennessy</i>	<i>Cr Wainwright</i>	<i>Cr Parslow</i>
<i>Cr Greaves</i>	<i>Cr Swann</i>	<i>Cr Jamieson</i>	<i>Cr Olbrich</i>	

*LOST*

## 13. Petitions

### 13.1 Petition - frequency of green organics waste collection

*MOVED Cr Hennessy.*

1. *That the petition be received.*
2. *That the head petitioner be advised that the Strategic Directions Committee resolved in May 2017 that no changes be made to our current service at this time due to the high cost of fortnightly collection and range of complementary services available (such as drop off, additional bins, compost bins).*

*Seconded by Cr Greaves.*

*CARRIED*

Cr Parslow called a DIVISION and the decision was set aside.

*For:*

<i>Cr Nicholls</i>	<i>Cr Bray</i>	<i>Cr Brown</i>	<i>Cr Chapman</i>	<i>Cr Kilby</i>
<i>Cr Hennessy</i>	<i>Cr Themeliotis</i>	<i>Cr Wainwright</i>	<i>Cr Parslow</i>	<i>Cr Greaves</i>
<i>Cr Swann</i>	<i>Cr Holtham</i>	<i>Cr Olbrich</i>		

*Against:*

<i>Cr Deakin</i>	<i>Cr Jamieson</i>			
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*CARRIED*

## **14. Urgent business**

### **14.1 Urgent business - Cr Parslow Foodbank**

*MOVED Cr Parslow.*

Cr Chapman left the meeting at 11.38pm.

*That Council approve the request for \$20,000 financial support per annum for two years from Foodbank to establish a Food Hub in our city, be incorporated into 2018-19 Budget balancing deliberations.*

*That Council note administration will seek offsetting savings that will also be incorporated into budget balancing deliberations to maintain the proposed rate increase for 2018-19 at 1.85 per cent.*

*Seconded by Cr Olbrich.*

Cr Hennessy left his seat in the Chamber at 11.40pm.

Cr Hennessy resumed his seat in the Chamber at 11.42pm.

*Cr Bray MOVED that the question be adjourned to the next meeting of Council.*

*Seconded by Cr Greaves.*

**CARRIED**

Cr Chapman left the meeting at 11.44pm.

Cr Themeliotis left her seat in the Chamber at 11.45pm.

Cr Greaves left her seat in the Chamber at 11.45pm.

### **14.2 Urgent business - Cr Jamieson re SAFC Women's change room**

*MOVED Cr Jamieson.*

Cr Holtham left her seat in the Chamber at 11.48pm.

Cr Hennessy left his seat in the Chamber at 11.48pm

Cr Brown left the meeting at 11.48pm.

Cr Themeliotis resumed her seat in the Chamber at 11.49pm.

Cr Greaves resumed her seat in the Chamber at 11.49pm.

Cr Hennessy resumed his seat in the Chamber at 11.49pm.

*That Council staff prepare a report to be presented at the next Strategic Directions Committee meeting or the Council meeting of the 19 June 2018 detailing the pro's and con's of the SAFC women's change room proposal and funding options for Councils contribution to the project, eg. Contingency reserve, budget reviews.*

*Council notes its potential contribution to the proposal is contingent on the SAFC receiving the \$500,000 Rec and Sports grant and the \$50,000 from SANFL.*

Cr Themeliotis left her seat in the Chamber at 11.52pm.

*Seconded by Cr Hennessy.*

**CARRIED**

## 15. Confidential items

### 15.1 Leave of Absence

*MOVED Cr Greaves.*

1. *That:*

- a. *under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.*
- b. *the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to consider matter at the meeting on the following grounds:*  
*Section 90(3)(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
- c. *accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.*

*Seconded by Cr Bray.*

*CARRIED*

Cr Themeliotis resumed her seat in the Chamber at 11.58pm.

Cr Holtham resumed her seat in the Chamber at 11.58pm.

*MOVED Cr Greaves.*

3. *That the matter of Leave of absence request having been considered by the Council in confidence under sections 90(2) and 90(3)(a) of the Local Government Act 1999 that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 that the Leave of absence request and the minutes and the report of the Council relating to discussion of the subject matter be kept confidential until 6 July 2018.*
4. *That, pursuant to section 91(9)(a) of the Local Government Act 1999, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.*
5. *That, pursuant to section 91(9)(c) of the Local Government Act 1999, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.*

*Seconded by Cr Themeliotis.*

*CARRIED*

## 15.2 Ombudsman Final report (2017/08607)

*MOVED Cr Greaves.*

1. *That:*

- a. *under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public, with the exception of staff on duty, be excluded from attendance at the meeting in order to consider this item in confidence.*
- b. *the Council is satisfied that it is necessary that the public, with the exception of staff on duty, be excluded to enable the Council to receive the report at the meeting on the following grounds:*  
*that, pursuant to section 90(3)(g), the information received, discussed or considered in relation to this agenda item is information concerning matters that must be considered in confidence in order to ensure that the Council does not breach any duty of confidence or breach any other legal obligation or duty.*
- c. *accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.*

*Seconded by Cr Kilby.*

*CARRIED*

Cr Jamieson left his seat in the Chamber at 11.59pm.

Cr Jamieson resumed his seat in the Chamber at 12.01am.

Cr Bray declared a conflict of interest.

*MOVED Cr Hennessy.*

4. *That the matter of the Ombudsman's final report 2017-08607 having been considered by the Council in confidence under sections 90(2) and 90(3)(g) of the Local Government Act 1999 that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 that the agenda report, any attachment, any informal questions and responses, discussion and minutes of the Council relating to discussion of the subject matter be kept confidential unless determined otherwise by the Ombudsman SA.*
5. *That, pursuant to section 91(9)(a) of the Local Government Act 1999, Council delegates the duty to conduct an annual review of the confidentiality order to the Chief Executive Officer, or their sub-delegate.*
6. *That, pursuant to section 91(9)(c) of the Local Government Act 1999, Council delegates the power to revoke the confidentiality order to the Chief Executive Officer, or their sub-delegate.*

*Seconded by Cr Kilby.*

*CARRIED*

**16. Closure**

Mayor Rosenberg officially declared the meeting closed at 12.11am.

*Certified Correct* ..... *Chair*

/ /2018