



**Bass Coast Shire Council
Minutes for Special Council Meeting
Wednesday 15 February 2017
The Old Wonthaggi Post Office
74 McBride Avenue
Wonthaggi
4.45pm**

- 1. These minutes are due to be confirmed on 15 February 2017**
- 2. Any decision included in these minutes is subject to change resulting from a rescission motion passed by Council.**

TABLE OF CONTENTS

A	Present and Apologies	3
B	Declarations of Interest	4
C	Reports Requiring Council Decision.....	6
	<i>C.1 Review and Adoption of Councillor Code of Conduct.....</i>	<i>6</i>

Meeting commenced

The meeting commenced at 4.48pm

Acknowledgement: Cr Ellis read the acknowledgement.

Statement: Cr Kent read the Councillor Statement.

A Present and Apologies

Councillors: Cr Pamela Rothfield, Island Ward (Mayor)
Cr Brett Tessari, Bunurong Ward (Deputy Mayor)
Cr Julian Brown, Bunurong Ward
Cr Les Larke, Bunurong Ward
Cr Stephen Fullarton, Island Ward
Cr Michael Whelan, Island Ward
Cr Geoff Ellis, Western Port Ward
Cr Bruce Kent, Western Port Ward
Cr Clare Le Serve, Western Port Ward

Officers: Mr Paul Buckley, Chief Executive Officer
Ms Felicity Sist, General Manager Infrastructure
Ms Allison Jones, General Manager Sustainable Development and Growth
Ms Sharon Fowles, Manager Governance and Information Services
Mrs Lee-Anne Harmer, Governance Officer

Apologies: Mr Mark Brady, General Manager Finance and Organisation Development
Mr David Elder, General Manager Healthy Communities and Governance

B Declarations of Interest

There were no Declarations of Interest.

Reports Requiring Council Decision

C Reports Requiring Council Decision

C.1 Review and Adoption of Councillor Code of Conduct

File No:	CM16/862
Department:	Healthy Communities and Governance
Council Plan Strategic Objective:	Effective Governance
	Our leadership will be achieved through good governance, community engagement and excellence in service delivery.

Declaration

The author has no direct or indirect interests in relation to this report.

Summary

In October 2015 the *Local Government Amendment (improved Governance) Act 2015* passed through the Victorian Parliament. One of the provisions that were proclaimed included the requirement for Councils to review their Councillor Code of Conduct.

A Councillor Code of Conduct must include an internal resolution procedure for dealing with any alleged contraventions of the Code. A Council can apply sanctions to a Councillor who has been found to have contravened the Councillor Code of Conduct.

Failure by a Councillor to comply with the Council's internal resolution procedure or to comply with a written direction given by the Council under section 81AB of the Act (sanctions for contravention of the Code) constitutes misconduct by a Councillor.

The Councillor Code of Conduct has been reviewed and is presented for Council's adoption.

Background

The *Local Government Act 1989* (the Act) requires a Council to develop and maintain a Councillor Code of Conduct. The Councillor Code of Conduct is required to be periodically reviewed. This Councillor Code of Conduct has been prepared by Council to comply with the requirements of the Act.

This Code:

- sets out the standards of conduct expected of elected representatives;
- endeavours to foster good working relations between councillors to enable Councillors to work constructively together in the best interests of the local community; and
- mandates councillor conduct designed to build public confidence in the integrity of local government.

The Councillors having undertaken a review of the Councillor Code of Conduct propose to include in Section 4 – Conduct Obligations the following:

Furthermore, Councillors are accountable to the Bass Coast Shire community for Council's governance and performance. As part of the Council, Councillors guide the development of policies, set service standards and priorities, and monitor the performance of the organisation.

Council also delegates to the Chief Executive Officer responsibility for the day-to-day management of Council's business and implementation of Council's strategy and policy initiatives. The Chief Executive Officer and other Senior Officers operate in accordance with a comprehensive set of management delegations under Council's Delegation of Authorities framework. These delegations cover commitments around project investment, operational expenditure and non-financial activities and processes, and are designed to accelerate decision-making and improve both efficiency and customer service.

More specifically, the Councillors' role and responsibilities include:

- *Representing the best interests of the whole Bass Coast Shire community, with decision making power exercised collegiately;*
- *Facilitating community participation;*
- *Managing the relationship with, and employment of, and performance of the Chief Executive officer;*
- *Council's governance, including the establishment of Committees;*
- *Oversight of the business and affairs of Council including:*
 - *strategic planning for the whole Bass Coast Shire and a sustainable future;*
 - *establishing and approving the strategies and financial objectives via the Council plan;*
 - *determining the financial strategy and allocating resources via the Council budget and long term financial plan; and*
 - *approving capital management, capital expenditure, and asset acquisition/divestment initiatives;*
- *Overseeing the establishment of risk management systems, financial policies, and financial and non-financial key performance indicators, targets and ratios;*
- *Approving and overseeing Council's human resources policies, where appropriate, having regard to the functions of the Chief Executive Officer;*
- *Liaising and coordinating with other levels of government, non-government, community groups and the private sector; and*
- *Advocating on a broad range of issues*

Strategic Basis

Section 76B of the Act sets out the primary principle of Councillor conduct as follows:

"It is the primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must:

- (a) act with integrity; and*
- (b) impartially exercise his or her responsibilities in the interests of the local community; and*
- (c) not improperly seek to confer an advantage or disadvantage on any person."*

Section 76BA of the Act sets out the general principles of Councillor conduct as follows:

“In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;*
- (b) act honestly and avoid statements (whether orally or in writing) or actions that will or are likely to mislead or deceive a person;*
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;*
- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that it is appropriate to his or her office;*
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;*
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;*
- (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.”*

Councillors are required to conduct themselves in observance of the primary principle and the general principles.

Council Plan Principles

- Equity in the distribution of resources across the Shire.
- The provision and use of energy and resources will be promoted in an efficient and sustainable way.

Finances

The cost of reviewing the Councillor Code of Conduct was covered using existing resources currently budgeted within the Governance Department.

Stakeholders

Councillors, Council staff, residents and ratepayers are all impacted by this policy.

Statutory Requirements/Codes/Standards/Policies

The Councillor Code of Conduct is guided by the *Local Government Act 1989*

Other Options

It is a requirement under the *Local Government Act 1989* to review the Councillor Code of Conduct. Council would be in breach of the Act if it did not review the Code.

Officer's Conclusion and Recommendation

The Councillor Code of Conduct is aimed at ensuring Councillors conduct themselves in accordance with standards expected. This includes the standards Councillors collectively set themselves in the Code of Conduct.

Within one month of any amendment being made to a Councillor Code of Conduct, all Councillors must make a declaration stating that they will abide by the revised Code of Conduct. This declaration must be signed and witnessed by the Chief

Executive Officer. Failure by a Councillor to make a declaration to abide by the Councillor Code of Conduct is now a ground for disqualification as a Councillor.

Recommendation

That Council having undertaken a review of the Councillor Code of Conduct adopted on 4 November 2016 hereby resolves to adopt the attached amended Councillor Code of Conduct.

Attachments

AT-1 Councillor Code of Conduct 14 Pages

Council Decision

Moved: Cr. Les Larke / Seconded: Cr. Stephen Fullarton

That the recommendation be adopted.

CARRIED UNANIMOUSLY

Meeting closed

The meeting closed at 4.53pm.