



**MINUTES OF SPECIAL COUNCIL MEETING OF THE FRANKSTON CITY COUNCIL
HELD IN THE CIVIC CENTRE, DAVEY STREET, FRANKSTON
ON 13 JUNE 2018 at 7.03PM**

PRESENT	Cr. Colin Hampton (Mayor) Cr. Sandra Mayer Cr. Glenn Aitken Cr. Brian Cunial Cr. Michael O'Reilly Cr. Steve Toms Cr. Quinn McCormack Cr. Kris Bolam
APOLOGIES:	Cr. Lillian O'Connor
ABSENT:	Nil.
OFFICERS:	Mr. Dennis Hovenden, Chief Executive Officer Mr. Tim Frederico, Director Corporate Development Dr. Gillian Kay, Director Communities Development Mr. Vishal Gupta, Acting Director Community Assets Mr. Taylor McVean, Coordinator Communications Ms. Michelle Tipton, Coordinator Council Business Support
EXTERNAL REPRESENTATIVES:	Ms. Prue Digby, Municipal Monitor

COUNCILLOR STATEMENT

Councillor Toms made the following statement:

"All members of this Council pledge to the City of Frankston community to consider every item listed on this evening's agenda:

- *Based on the individual merits of each item;*
- *Without bias or prejudice by maintaining an open mind; and*
- *Disregarding Councillors' personal interests so as to avoid any conflict with our public duty.*

Any Councillor having a conflict of interest in an item will make proper, prior disclosure to the meeting and will not participate or vote on the issue."

Chairperson's initials

PRAYER

At the request of the Mayor, Councillor Mayer read the Opening Prayer.

ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

Councillor McCormack acknowledged the Boon Wurrung and Bunurong peoples – the traditional custodians of the land on which we stand and recognised all Aboriginal and Torres Strait Islander peoples who have given to Australia’s identity – from the past, into the present and for the future.

DRAFT

Chairperson’s initials

1. APOLOGIES.....2

2. DISCLOSURES OF INTEREST AND DECLARATIONS OF CONFLICT
OF INTEREST2

3. ITEMS BROUGHT FORWARD2

4. CONSIDERATION OF REPORTS OF OFFICERS.....3

 4.1 Review of Governance Local Law (Meeting Procedure).....3

 4.2 Review of Councillor Code of Conduct.....5

5. LATE REPORTS8

6. URGENT BUSINESS.....8

DRAFT

1. APOLOGIES

Apology

Council Decision

Moved: Councillor Cunial

Seconded: Councillor Mayer

That the apology be received and Councillor O'Connor be granted leave from the meeting.

Carried Unanimously

2. DISCLOSURES OF INTEREST AND DECLARATIONS OF CONFLICT OF INTEREST

Nil.

3. ITEMS BROUGHT FORWARD

Nil.

DRAFT

4. CONSIDERATION OF REPORTS OF OFFICERS**4.1 Review of Governance Local Law (Meeting Procedure)**

(BA Corporate Development)

Recommendation (Director Corporate Development)

That Council:

1. Endorses the draft Governance Local Law (Attachment B), for commencement of the statutory procedure for the making of a new Local Law, with the wording of clause 94(e) regarding the Chair's duties and functions to read as follows:
 - a) must be impartial and fair, and must take steps to ensure that no Councillor is demeaned or denigrated during any Council meeting (*RECOMMENDED*).
OR
 - b) must not demean or denigrate any Councillor, must be impartial and fair, and must take steps to ensure that no Councillor is demeaned or denigrated during any Council meeting.
OR
 - c) must always act with impartiality and fairness, and not be demeaning or denigrate Councillors.
2. Notes that the statutory procedure for making a local law, as set out in section 119 of the Local Government Act 1989, includes the following steps:
 - a) Preparation of a detailed explanatory document ('community impact statement') which reflects the content in the endorsed draft Governance Local Law;
 - b) Giving public notice and notice in the Government Gazette of Council's intention to make a new Governance Local Law, and inviting submissions in accordance with section 223, with the option to be heard at a future Council meeting;
 - c) Ensuring that the draft local law and community impact statement are available for inspection for a minimum of 28 days;
 - d) Receiving and hearing any submissions at a future Council meeting;
 - e) Considering a detailed report at a future Council meeting regarding the outcome of the submissions process, and then determining whether to adopt the proposed new Governance Local Law.

Council Decision

Moved: Councillor Cunial

Seconded: Councillor Mayer

That:

1. Council endorses the draft Governance Local Law (Attachment B), for commencement of the statutory procedure for the making of a new Local Law:
 - a) with the wording of clause 94(e) regarding the Chair's duties and functions to read as follows:
 - (i) must be impartial and fair, and must take steps to ensure that no Councillor is demeaned or denigrated during any Council meeting.

Chairperson's initials

- b) and with the following amendments:
- (i) removal of clause 32 (*Councillor statements*) in its entirety, and renumbering of the following clauses.
 - (ii) removal of sub-clause 36(3) (*when the Chair may debate a motion*) in its entirety .
 - (iii) addition of the following sentence at the end of clause 68(2) (*Petitions and joint letters*) – *Any concerns about the content of the petition or joint letter should be referred to the Chief Executive Officer, to enable an early assessment of any legal or probity issues.*
2. Council notes that the statutory procedure for making a local law, as set out in section 119 of the Local Government Act 1989, includes the following steps:
- a) Preparation of a detailed explanatory document ('community impact statement') which reflects the content in the endorsed draft Governance Local Law;
 - b) Giving public notice and notice in the Government Gazette of Council's intention to make a new Governance Local Law, and inviting submissions in accordance with section 223, with the option to be heard at a future Council meeting;
 - c) Ensuring that the draft local law and community impact statement are available for inspection for a minimum of 28 days;
 - d) Receiving and hearing any submissions at a future Council meeting;
 - e) Considering a detailed report at a future Council meeting regarding the outcome of the submissions process, and then determining whether to adopt the proposed new Governance Local Law.

Carried

For the Motion: Crs Bolam, Cunial, Hampton and O'Reilly
Against the Motion: Crs Aitken, McCormack and Toms
Abstained: Cr Mayer

4.2 Review of Councillor Code of Conduct

(BA Corporate Development)

Council Decision

Moved: Councillor Mayer

Seconded: Councillor Bolam

That Council, having reviewed the Councillor Code of Conduct which is attached to this report, approves and adopts the following inclusions to the document:

1. **Listing items on the Councillor briefing schedule**

Add new clause 3.5 – *The Mayor will liaise with Councillors about items to be listed on the Councillor briefing schedule. Councillors may also raise items for briefing directly with the Chief Executive Officer or the Director Corporate Development.*

2. **Clarifying the role of a Councillor**

Add new clause 5.4 – *The role of a Councillor does not include the performance of functions that are the responsibility of the Council administration. Councillors perform a vital role through their participation in Council's decision-making functions; in a properly constituted Council meeting, Councillors approve the Council's procurement policy and make decisions about the awarding of significant contracts. However, Councillors do not have a role in the day to day administration of the procurement policy and must not attempt to influence the procurement process. Councillors must not perform project management or contract management duties, or become involved in operational tasks.*

3. **Requirement to attend a meeting called by the Mayor**

Add new clause 5.6 – *If the Mayor calls a meeting for the purpose of providing guidance to a Councillor or Councillors (in accordance with the functions of the Mayor described in section 73AA of the Act), the Councillor or Councillors must attend the meeting at an agreed time.*

4. **Requirement to declare gifts on Gifts Register**

Replace clause 9.2 (a) with amended wording as follows – *where a gift is accepted with a value equal to or above \$150, be mindful of the potential for a gift to give rise to the perception of being an attempt to gain favourable treatment, and ensure for transparency and accountability purposes that the gift is recorded in Council's Gifts Register noting whether the gift was retained or handed to the Council;*

5. **Use of social media**

Replace clause 9.4 with amended wording as follows – *Use of social media*

In addition to the Communication provisions above, the following provisions apply to the use of all forms of social media. When using social media, Councillors will endeavour to maintain an appropriate separation between their role and duties as a Councillor and their life as a private citizen. On any social media account on which a Councillor may discuss matters relevant to Council, the Councillor will include in the header of the account a statement that they are providing their own individual comment and are not speaking for or on behalf of Frankston City Council. When using any social media which enables them to be identified as a Councillor of the Council, a Councillor will not:

- a) *imply that they are authorised to speak on behalf of the Council, or give the impression that their expressed views are those of the Council;*

- b) *post, make comment or endorse (for example 'like') material that is offensive, obscene, defamatory, damaging, deceptive, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, that infringes copyright or privacy, that constitutes a contempt of court, that breaches a court suppression order or is otherwise unlawful;*
- c) *use or disclose confidential information obtained in their capacity as a Councillor; or*
- d) *make any comment, post or endorse any material that might otherwise cause damage to the Council's reputation or bring it into disrepute.*

Where a Councillor has a social media account that refers to them as a Councillor, in accordance with Council's Election Period Policy this account must be deactivated and may only be reactivated upon the individual being officially sworn in as a Councillor of Frankston City Council.

6. Disqualification for conflicting duties in State or Federal Parliament

Add new clause 9.9 a) – Councillors note that section 28A of the Act disqualifies an individual from being a Councillor if they are employed as a Ministerial officer, a Parliamentary adviser or an electorate officer by a member of the Parliament of Victoria or in a corresponding position (however designated) by or for a member of the Parliament of the Commonwealth of Australia or of another State or Territory of the Commonwealth.

7. When a Councillor must declare intended candidacy

Replace clause 9.9 b) with amended wording as follows - A Councillor who is a prospective candidate will declare his or her intended candidacy at a meeting of the Council as soon as practicable after forming the intention to nominate and will then notify the Mayor, Councillors and Chief Executive Officer.

8. Access to documents and information

Add new clause 9.11 – Access to documents and information - Councillors are entitled to request documents and information relevant to an issue before, or concerning, Council. Such documents and information will be supplied in a manner that complies with Council's privacy obligations. A Councillor's request for access to Council documents will be made to the CEO or relevant Director. A Councillor will not access Council files or documents outside the formal process.

9. Access to Council offices

Add new clause 9.12 – Access to Council offices – Councillors are entitled to access all civic areas, the Councillors' office and Councillors' lounge area, the Mayor's office, the common areas adjoining the offices of the Mayor and CEO, the Council Chamber and all meeting rooms, in the performance of their official duties and functions. However, a Councillor must not access a staff member's office or work station unless in the presence of the staff member. Councillors who are not undertaking official duties and functions have the same rights of access to Council buildings and premises as any other member of the public.

10. Grievance resolution procedure

The revised grievance resolution procedure is noted.

- (ii) That the draft Councillor Code of Conduct 2018 be finalised in accordance with Council's resolution in relation to each of the points in item (i) above.*
- (iii) That each Councillor makes a written declaration before the Chief Executive Officer stating that they will abide by the new Councillor Code of Conduct.*

Carried Unanimously

DRAFT

5. LATE REPORTS

Nil

6. URGENT BUSINESS

Nil

DRAFT

Chairperson's initials

The meeting closed at 7.25 pm

DRAFT MINUTES
CONFIRMED THIS

DAY OF

2018

.....
CHAIRPERSON

DRAFT

Chairperson's initials