KANGAROO ISLAND COUNCIL
MINUTES OF A COUNCIL MEETING HELD AT THE
COUNCIL CHAMBERS, 43 DAUNCEY STREET, KINGSCOTE,
ON 9 APRIL 2019, COMMENCING AT 11:00 AM

1. PRESENT
Mayor M Pengilly, Crs S Mumford, P Denholm, K Liu, S Pledge, G Teasdale & L Irwin.

In Attendance
G Georgopoulos (Acting Chief Executive Officer), N Putland (Director Council Services), M Grimes (Personal Assistant).

2. APOLOGIES
Cr Graham Walkom.

3. DEPUTATIONS
Nil.

4. MINUTES OF COUNCIL MEETINGS
4.1 BUSINESS ARISING FROM MINUTES OF 12.03.19
4.2 MINUTES OF MEETING HELD 12.03.19
Moved Cr S Mumford Seconded Cr S Pledge
That the Minutes of the Meeting held on 12.03.19 be confirmed with the amendment of minute C56:2019 item 3.2 – mover was Cr K Liu. CARRIED Minute: C106:2019

4.3 BUSINESS ARISING FROM MINUTES OF 12.03.19
4.4 MINUTES OF IN-CONFIDENCE SPECIAL MEETING HELD 20.03.19
Moved Cr P Denholm Seconded Cr S Pledge
That the Minutes of the In-Confidence Special Meeting held on 20.03.19 be confirmed. CARRIED Minute: C107:2019

4.5 BUSINESS ARISING FROM IN-CONFIDENCE SPECIAL MINUTES OF 20.03.19
4.6 MATTERS LAYING ON THE TABLE
Minute: C347:2018 That the CEO be censured for failing to provide information earlier as required for making an informed decision on the Emu Bay Boat Ramp Upgrade Project.

Minute: C443:2018 That the report request lay on the table.

Report request by Cr Kauppila - Council seek legal advice / opinion of the perceived conflict of interest that Mayor Pengilly may have in future discussions, motions and / or positions regarding KIPT and the proposed wharf at Smiths Bay as he is an ardent oppose to the Smith Bay wharf proposal and he is a resident of Smiths Bay area and potentially impacted by this development.
Minute: C45:2019 Council resolves that Food Safety Inspections be included in the Sponsorship Program at 50% Sponsorship as once off but annually recurring event.

Moved Cr G Teasdale 
Seconded Cr P Denholm
That Minutes C347:2019 and C443:2018 report request be lifted from the table and that no further action be taken on these items.

Moved Cr P Denholm
Seconded Cr K Liu
Amendment
That minute C443:2019 report request be lifted from the table and that no further action be taken on this item.
LOST

Minute: C108:2019
The original motion was put

Moved Cr G Teasdale
Seconded Cr P Denholm
That Minutes C347:2019 and C443:2018 report request be lifted from the table and that no further action be taken on this items.
CARRIED

5. MAYOR'S REPORT

5.1 Mayor’s report

Moved Cr G Teasdale
Seconded Cr S Pledge
That the Mayors report be received for information.
CARRIED. 

5.1 Councillor's update

Verbal updates by councillors attending a range of meetings / events.

Moved Cr S Pledge
Seconded Cr G Teasdale
That the KI Council write to Native Vegetation Council by April 11 raising to them the strong community voice opposing the proposed development in Flinders Chase National Park.
CARRIED.

5.3 ACEO remuneration

Moved Cr K Liu
Seconded Cr P Denholm
That the Acting CEO be offered a remuneration package of $204,726, p/a in addition, private use of Council vehicle and mobile phone whilst performing the Acting CEO duties only, this will be back dated commencing from 19 February 2019.
CARRIED.
6. **QUESTIONS FROM THE GALLERY**

6.1 Mr Darren Keenan – In seeking ratepayers' funds from Council for the operations of the visitors' tourism information centre, have TKI presented alternative business model/s (to that which they currently run under) that demonstrate financial self-sufficiency and sustainability, and if so what is the timeframe for that self-sufficiency and sustainability.

Moved Cr G Teasdale  
Seconded Cr S Pledge

That Council directs administration to implement a short term plan in collaboration with the Penneshaw Community Business Centre and Tourism Kangaroo Island to provide visitor information, at the Penneshaw Community Business Centre until the end of this financial year.

CARRIED.  
Minute: C113:2019

7. **PETITIONS**

8. **QUESTIONS FROM ELECTED MEMBERS**

8.1. **Questions on Notice**

8.1.1 Cr Walkom - Various

*Question 1*

a) What was the total paid to I.S.S. Australia and/or partners during the 2017/18 F.Y.?
b) What is the indicated amount that has been and is estimated to be paid to this company during 2018/19 F.Y.?

*Answer*

Taken on notice

*Question 2*

a) What was the original formally contracted amount to the principal contractor for the airside works of our airport project? Please provide signed contract document page.
b) What was the original formally contracted amount to the principal contractor for the landside works of our airport project? Please provide signed contract document page.
c) Was the contract with NBS fully and formally executed prior to them going into administration?
d) What was the original formally contracted amount with NBS? Please provide signed contract document page.

*Answer*

Taken on notice

*Question 3*

Has council provided its rates database or any part thereof to any external body since Jan 01, 2017?
If so:
a) to whom and for what purpose?
b) did providing that information comply with all aspects of council’s Privacy Policy?
c) was that external body contracted to maintain the same privacy controls as council?
d) did that external body (c) provide that information, or any part to any other party?
e) was that information used for any benefit by any external party directly or indirectly?
f) Have the persons listed on that database been advised their information may have been provided to others?
g) Have those persons (f) been asked for their permission to provide their information to others?
h) Will council ensure any information provided to others is recalled and re-secured?
i) Are controls in place to ensure that any data base information is not used by anyone in future?

8.1.2 Cr Walkom - Various

Question 1
a) What are the full details of each occasion where an elected member or staff member has a declared or a perceived conflict of interest in relation to projects that council have been involved in, where themselves, their direct family members or companies which they hold an interest in have been recipients of work?

b) Furthermore, with unequivocal knowledge that elected members and staff members have been recipients of work (directly and/or indirectly) on projects of council, please detail in full what measures has the council administration taken to protect council from suggestions and perceptions that council is looking after its own?

Answer
Taken on notice

Question 2
Christmas Cove Income/Expenditure
a) Please provide annual net profit or loss for FY 13/14, 14/15, 15/16, 16/17, 17/18 and ytd for council’s operation of the Christmas Cove marina leasing undertaking including all outgoings for electricity, water, and sewerage services provided in total and to lessees of berths.

b) What provisions are there in the berth long term and short term leases for grey and black water discharge from either occupied or unoccupied moorings?

c) What continuous period of 'on board' occupancy is allowed for permanent or semi permanent berthing?

d) Are the lease conditions routinely enforced?

e) Have any infringements been issued relevant to berth leasing for the years listed in part a)?

Answer
Taken on notice

8.1.3 Former Cr Kauppila - Legal and engineering costs to Council

The questions on notice were presented to the meeting.

Moved Cr K Liu               Seconded Cr G Teasdale
Item 8.1.3 - former Cr Kauppilas Questions on Notice - That this item be removed from the agenda on the grounds that it does not comply with section 9 of the Local Government Procedures at Meetings Regulations 2013.
CARRIED.                     Minute: C114:2019
8.2. Questions without Notice

9. REPORTS OF COMMITTEES

10. CHIEF EXECUTIVE REPORTS

10.1 CEO Activities / Meetings

Moved Cr P Denholm  
Seconded Cr G Teasdale  
That the CEO Activities / Meetings report be received for information.  
CARRIED.  
Minute: C115:2019

10.2 Resignation by Sharon Kauppila as an Elected Member

Moved Cr S Mumford  
Seconded Cr S Pledge  
That Sharon Kauppila's resignation be noted.  

Moved Cr S Pledge  
Seconded Cr L Irwin  
Amendment  
That Sharon Kauppila's resignation be noted and that Council write a letter of appreciation for her term as a councillor.  
CARRIED.  

The amendment became the motion.  

Moved Cr S Pledge  
Seconded Cr L Irwin  
Amendment  
That Sharon Kauppila's resignation be noted and that Council write a letter of appreciation for her term as a councillor.  
CARRIED.  
Minute: C116:2019

10.3 Committee representation due to resignation

Moved Cr G Teasdale  
Seconded Cr S Mumford  
That Cr L Irwin be appointed to Awards and Grants Assessment Panel.  
CARRIED.  
Minute: C117:2019

10.4 Electoral Commissioner's Letter to the CEO regarding Islander notice.

Moved Cr P Denholm  
Seconded Cr S Pledge  
That the correspondence be received for information.  
CARRIED  
Minute: C118:2019

10.5 KI Energy Biomass Project

This item was deferred to the in-confidence section of the meeting.

10.6 Penneshaw Structure Plan

Moved Cr P Denholm  
Seconded Cr L Irwin  
That Council adopts the Penneshaw Structure Plan, and incorporates a copy of the community consultation submissions in Appendix B of the Plan.  
CARRIED.  
Minute: C119:2019
10.7 CEO Selection Panel Committee

11:53am ACEO left the meeting.

Moved Cr S Pledge Seconded Cr S Mumford
That Council, pursuant to Section 98(4) of the Local Government Act resolves to appoint a Selection Panel to assist Council with the appointment of the Chief Executive Officer.
CARRIED.
Minute: C120:2019

Moved Cr K Liu Seconded Cr L Irwin
That Council appoints the following members to the CEO Selection Panel Committee:
   a. Mayor Pengilly, Chairperson
   b. 3 Elected Members

Moved Cr G Teasdale Seconded Cr P Denholm
Amendment
That Council appoints the following members to the CEO Selection Panel:
   a. Mayor Pengilly, Chairperson
   b. All Elected Members
CARRIED.

The amendment became the motion

Moved Cr G Teasdale Seconded Cr P Denholm
That Council appoints the following members to the CEO Selection Panel:
   a. Mayor Pengilly, Chairperson
   b. All Elected Members
CARRIED.
Minute: C121:2019

Moved Cr S Pledge Seconded Cr G Teasdale
That Council adopts the Terms of Reference for the CEO Selection Panel, as contained in Attachment A with the amendment of item 10.1 Quorum being half plus one.
CARRIED.
Minute: C122:2019

11:57am ACEO re-joined the meeting.

10.8 Representation on Councils Audit Committee

Moved Cr G Teasdale Seconded Cr K Liu
That the replacement member on the Audit and Risk Committee be Cr Walkom.
CARRIED.
Minute: C123:2019

Moved Cr S Pledge Seconded Cr G Teasdale
Audit committee review the “Audit Committee Terms” of reference at their next meeting (17 April) with a view to:
   a) Review the current membership arrangement (including whether the current independent chair is to be replaced on the committee or only as the chair),
   b) Ensure that an ongoing and effective assessment of risk is included in the Terms of Reference.
   c) Change all references to the Audit & Risk Committee
Moved Cr S Pledge  
Seconded Cr P Denholm  
12:01pm meeting adjourn for a 10 minute comfort break.  
CARRIED.  

Minute: C124:2019

12:13pm meeting resumed.

Moved Cr S Pledge  
Seconded Cr L Irwin  
That the item be deferred pending legal and further advice.  
CARRIED.  

Minute: C125:2019

Note - Meeting returned to this item following the adjournment for lunch.

11. BUSINESS SUPPORT REPORTS

11.1 Council Services Status Report

Moved Cr S Pledge  
Seconded Cr S Mumford  
That the report be received for information.  
CARRIED.  

Minute: C126:2019

11.2 Execution of Conveyancing Documents - Deposit of Plan - Addition to Council Reserve - Glen Barrett Drive

Moved Cr P Denholm  
Seconded Cr S Pledge  
That Council resolve to execute the conveyancing documents by way of signature of Mayor and Chief Executive Officer and affixing the Common Seal of Council.  
CARRIED.  

Minute: C127:2019

11.3 Supplementary Election Update

Moved Cr S Pledge  
Seconded Cr G Teasdale  
That this report be received for information.  
CARRIED.  

Minute: C128:2019

11.4 Employee Sub-delegations

Moved Cr S Pledge  
Seconded Cr S Mumford  
That the report be received for Councils information.  
CARRIED.  

Minute: C129:2019

11.5 Quarterly Finance Status Report - March 2019

Moved Cr G Teasdale  
Seconded Cr S Pledge  
That the report Quarterly Finance Status Report March 2019 be received for information.  
CARRIED.  

Minute: C130:2019

11.6 FRWA Budget and Long-term financial Plan

Moved Cr P Denholm  
Seconded Cr S Pledge  
That Council adopt the 2019-20 FRWA Annual Budget, including amended KIRRC fees.  
CARRIED.  

Minute: C131:2019
Moved Cr P Denholm  Sec. Cr K Liu
That Council adopt the FRWA 2020-2030 10-year long term financial plan.
CARRIED.

Minute: C132:2019

12. ASSET SERVICES & INFRASTRUCTURE REPORTS

12.1 Fleurieu Regional Waste Authority (FRWA) Service Level Agreement

Moved Cr S Pledge  Sec. Cr P Denholm
That Council endorses the Fleurieu Regional Waste Authority (FRWA) Service Level Agreement and authorizes the Chief Executive Officer to sign as required.
CARRIED.

Minute: C133:2019

13. NOTICES OF MOTION

13.1 Cr Denholm - Minute C45:2019 Food Safety Inspections

Moved Cr P Denholm  Sec. Cr L Irwin
1. That Minute C45.2019 relating to Food safety inspections be withdrawn from”Matters laying on table.

2. That all Food Safety Inspections that are carried out to suppliers of food, charitable in nature and free of cost to the consumer, be fully sponsored under the Councils Sponsorship program
CARRIED.

Minute: C134:2019

13.2 Cr Irwin - Tourism Information Centre funding

Moved Cr L Irwin
1) Council conduct an urgent review of options for the provision of a visitor Information Service, including potential interim options leading to a more secure service.
2) The CEO delegate the responsibility for the conduct of the review within a budget of up to $20k.
3) The CEO approach the Commissioner for KI to explore the potential for her partnering in the review, including a funding contribution.
4) Consultation occur with TKI, DEW and other relevant stake holders during the conduct of the review.
5) The review report be considered by council in the early May so as to ensure that consideration is given to the report recommendations as part of the 19/20 budget.
6) Develop a short term plan to keep VIC open over the Easter/school holidays and long weekend periods.

LAPSED/No Seconder

13.3 Cr Irwin - Tourism Information Centre funding

Moved Cr L Irwin  Sec. Cr P Denholm
That Council sustains the on-going operations of the Visitor Information Centre (TKI) at Penneshaw or the amalgamated body by contributing up to $150000 from the Tourism Economic Development fund, to commence immediately until 30th June 2020.

12:32pm ACEO left the meeting
12:35pm ACEO re-joined the meeting

LOST.

Minute: C135:2019
14. **CORRESPONDENCE FOR DISCUSSION**

12:42pm Cr Irwin left the meeting.

14.1 **AGKI - Appointment of representative to the Board**

Moved Cr S Pledge
Seconded Cr G Teasdale
That Cr Mumford be appointed as Councils representative to the AGKI Board for the term of Council.
CARRIED.

Minute: C136:2019

15. **CORRESPONDENCE FOR INFORMATION**

15.1 **Correspondence for information - various**

12:46pm Cr Irwin re-joined the meeting.

Moved Cr S Pledge
Seconded Cr G Teasdale
That the following correspondence be received for information:

- Sara Hourez – Cruise ship visitation
- Ken Grundy - Council elections
- Emu Bay Progress Association – Emu Bay Community Concerns + Council response
- Yankalilla District Council – Oil Exploration in the Great Australian Bight
- South Australian Regional Visitor Strategy report on progress
- Ms Rebekha Sharkie – Federal Member for Mayo – Local Community needs
- Hon Corey Wingard MP – SA Sport & Recreation Infrastructure Plan
- Hon Michael McCormack MP – Australian Government’s 2019-20 Budget Road Safety Announcement

CARRIED.

Minute: C137:2019

Moved Cr S Pledge
Seconded Cr L Irwin
12:48pm That the meeting adjourn for a 30 minute lunch break.
CARRIED.

Minute: C138:2019

1:08pm meeting resumed.

Note – Meeting returned to item 10.8 Representation on Councils Audit Committee following receipt of advice.

Moved Cr P Denholm
Seconded Cr S Pledge
1:08pm That meeting procedures be suspended pursuant to Regulation 20(1) of the Local Government (Procedures at Meetings) Regulations 2013 for a period of 10 minutes to facilitate information discussion in relation to item 10.8 Representation on Councils Audit Committee.
CARRIED.

Minute: C126:2019

1:13pm Meeting resumed in open session.

Item 10.8 remains, as per formal resolution; deferred pending legal and further advice.
16. NOTIFICATIONS & REPORT REQUESTS

17. URGENT BUSINESS

18. IN-CONFIDENCE BUSINESS

10.5 KI Energy Biomass Project

Moved Cr L Irwin
Seconded Cr G Teasdale

1:17pm That Council approves under the provisions of Section 90 (2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting, with the exception of ACEO, DCS, PA & Michael Richardson of BRM Holdich, in order to consider, in confidence, a matter on the grounds of Section 90 (3)

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which

(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and

(ii) would, on balance, be contrary to the public interest;

This matter relates to a commercial negotiation and as such represents matters that are commercial in confidence and should not be divulged in the public realm.

CARRIED.  
Minute: C140:2019

CONFIDENTIAL

CONFIDENTIAL

Moved Cr G Teasdale
Seconded Cr L Irwin

That Council approves:

a. That all documents relating to the above matter be kept confidential, pursuant to Section 91 (7) (b) of the said Act.

b. Further, that pursuant to Section 91 (9) (a) of the said Act, that part a of this resolution shall cease from 30 June 2019.

This matter relates to a commercial negotiation and as such represents matters that are commercial in confidence and should not be divulged in the public realm.

CARRIED.  
Minute: C142:2019

2:04pm meeting resumed in open session.

18.1 Request to purchase Council land

Moved Cr S Mumford
Seconded Cr P Denholm

2:04pm That Council approves under the provisions of Section 90 (2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting, with the exception of ACEO, DCS & PA in order to consider, in confidence, a matter on the grounds of Section 90 (3)

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which
(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and

(ii) would, on balance, be contrary to the public interest;

This matter relates to a commercial negotiation and as such represents matters that are commercial in confidence and should not be divulged in the public realm.

CARRIED. Minute: C144:2019

Moved Cr L Irwin Seconded Cr P Denholm

That Council approves:

a. That all documentation relating to the above matter be kept confidential, pursuant to Section 91 (7) (b) of the said Act.

b. Further, that pursuant to Section 91 (9) (a) of the said Act, that part a of this resolution shall cease from 30 June 2019.

This matter relates to a commercial matter and as such represents matters that are commercial in confidence and should not be divulged in the public realm.

CARRIED. Minute: C145:2019

2:06pm Meeting resumed in open session.

Moved Cr S Pledge Seconded Cr G Teasdale

That Council informs the interested parties that Council is not willing to sell the land at this point in time and that it will retain the land in its asset portfolio.

CARRIED. Minute: C146:2019

18.2 Sale of land for non-payment of rates

Moved Cr G Teasdale Seconded Cr P Denholm

2:06pm That Council approves under the provisions of Section 90 (2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting with exception of ACEO, DCS & PA in order to consider, in confidence, a matter on the grounds of 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);

This matter relates to personal affairs of rate payers and as such represents private interest that should not be divulged in the public realm.

CARRIED. Minute: C147:2019

CONFIDENTIAL Minute: C148:2019
Moved Cr G Teasdale            Seconded Cr P Denholm
That Council approves:
    a. That all reports relating to the above matter be kept confidential, pursuant to
       Section 91 (7) (b) of the said Act.
    b. Further, that pursuant to Section 91 (9) (a) of the said Act, that part a of this
       resolution shall cease from 30 June 2019.

This matter relates to personal affairs of rate payers and as such represents matters
that are commercial in confidence and should not be divulged in the public realm.
CARRIED.

Minute: C149:2019

2:04pm Meeting resumed in open session.

Meeting returned to an Urgent Business item:

Moved Cr P Denholm            Seconded Cr K Liu
That Council write to Air Marshall Mr Mel Hupfeld, AO, and DSC, to congratulate him
on his notable achievement of being appointed Chief of the Air Force.
CARRIED.

Minute: C150:2019

19.  CLOSURE BY MAYOR

2:15pm Michael Pengilly declared the meeting closed.

Minutes Confirmed
                      
                    Michael Pengilly
                      Mayor