



COOLOOLA SHIRE COUNCIL

AGENDA

of the

GENERAL MEETING

CHAIRMAN: Cr M Venardos OAM (Mayor)

**Held in the Boardroom
Old Bank Building
Cnr Nash & Channon Streets,
Gympie Qld 4570**

**On Tuesday 29 January 2008
at 9.00 am**



Cooloolo Shire Council

GENERAL AGENDA

*Mayor MJ Venardos OAM (Chairman),
Crs. CR Chapman OAM, FG Nissen AM, NR Ellis, LJ
Friske, R. Owen, SS Jocumsen, DR Neilson, IT
Petersen, WJ McIntyre, WW Sachs, J Watt and M.
Prior*

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SECTION 1: OPEN WITH PRAYER

ONE MINUTES SILENCE TO BE OBSERVED FOR DECEASED
COOLOOLA SHIRE RESIDENTS

SECTION 2: APOLOGIES

SECTION 3a: CONFIRMATION OF MINUTES OF PREVIOUS GENERAL MEETING

**(MOTION: That the Minutes of the General Meeting held on 22 January
2008 be taken as read and confirmed.)**

SECTION 3b: RESCISSION NOTICE

3b/1: Rescission Notice

Re: Rescission Notice
From: Cr Ron Owen, Councillor, Cooloola Shire Council
File:
Date: 23/01/08

*“Five Days Notice are required to be given under the Local Government Act
93 to rescind a Motion of Council.*

*Could the CEO inform all Councillors that at the next general meeting after
the appropriate notices have been delivered to the Councillors and the
legalities can be followed, that*

*I Cr Ron Owen will move a Rescision motion, that the motion from the General
Meeting held on the 22nd January 2008, under item*

‘9/1 Election Signage G64/01/08 G64/01/08

Moved: Cr I.T. Petersen Seconded: Cr W.J. McIntyre

That Item 9/1 and Late Item 1 be received and dealt with concurrently.

Further that the contents of the report from Mr Hartley and Mr Hayes be noted.

Further that in respect to section 7(b)(ii) of Subordinate Local Law 11.1 agree that for a candidate, the total number of sites on which an election advertisement may be exhibited must not exceed 25.

Further that in the interest of uniformity across the proposed Gympie Regional Council, Council will not, during the 2008 election period, take enforcement action in relation to election signs unless

(a) they are placed on public land, as defined in Subordinate Local Law No 11.1; and

(b) there is, in the opinion of the Chief Executive Officer or his delegate, a risk to public health and safety.'

be rescinded and be replaced by a resolution stating.

Replacement Motion

*That Cooloola Shire Council affirms and declares that the document **Subordinate Local Law No. 11.1 (Election Advertisements)** does not have the force of a law.*

Report, Giving Reasons For Recision.

1. The document Subordinate Local Law No. 11.1 (Election Advertisements) states in section.

(1) The object of this subordinate local law is to supplement Local Law No. 11 (Control of Advertisements)

Subordinate local law has to obtain its powers from a Local Law, Local Law No 11 (Control of Advertisements) it states in section (1) as being the local law that should supply that head of power.

2. The Local Government Act 93 emphatically states in many places that subordinate local law has to have specific authority within the (originating) Local Law to empower it for example;

Section 853 Meaning of subordinate local law

*"A subordinate local law is a law made by a local government about a matter that a **local law expressly states that** the local government may make about the matter".*

And

Section 897 Extent to which subordinate local law is binding

(1) A local government's subordinate local law is binding on the local government.

(2) A local government's subordinate local law on a matter is,

*and it is declared always was, binding on anyone else to the **extent stated in the local law stating the matter about which the subordinate local law may be made.***

To clarify the requirement even further there is an explanatory note in section

Section 848(3) Provision for subordinate local laws to assist the detailed implementation of a local laws objects. See examples 1 and 2..

Examples for subsections (2) and (3)—

1 If a local law on libraries states that the local government may make a subordinate local law about the management and use of library resources, the local government has a general power to make a subordinate local law about a variety of issues, including, for example, the hours of operation of the library, use of its facilities and restrictions on borrowing books.

2 If a local law on libraries states that the local government may make a subordinate local law on a specific issue, for example, the restriction of borrowing rights or suspension of membership if a member retains borrowed items for substantially longer than

*permitted by the library rules, the **local government can not,***

without specific authority in the local law, make a subordinate local

law *about other library matters, including, for example, the hours of operation of the library.*

3. Local Law No 11 (Control of Advertisements) does not have the specific authority to make subordinate law. Its only external power is to grant under Section 23, Local Law Policies

Local law policies

23. The local government may make local law policies about

(a) classifying advertisements as permitted advertisements, and the conditions on which

advertisements are classified as permitted advertisements;⁷ or

(b) criteria for granting approvals for exhibition of advertisements, the term for which

approvals are to be granted or renewed, and the conditions of approvals;⁸ or

(c) specifying classes of advertisements that are prohibited or circumstances in which the

exhibition of advertisements is prohibited;⁹ or

(d) other matters about which this local law specifically allows for the making of local law

policies.

*4. The Local Government Act 93 gives powers to Local Government to make Local Laws which have enforceable penalties, local Government can also by motion make Policy such as a Revenue Policy or a Reimbursement Policy but Policies cannot proscribe penalties and enforcement. Therefore **Subordinate Local Law No. 11.1 (Election Advertisements)** is just a document as it does not have the specific authority from the Local Law and as it has not been through the process set down as described in **Part 2 Making local laws and subordinate local laws Division 1 to 4, Sections 855 to 883 of the Local Government Act 93.***

5. Councillors may recall that after legal advice was obtained from King & Co Re - Subordinate Local Law 11 (Sign Codes) they correctly identified that Local Law 11 (Control of Advertisement) has no specific authority due to its ability to only allow policy and its silence and lack of ability to empower Subordinate Local Law. Mr Michael Grant brought that Legal opinion to this table and this Council made resolutions to correct this inadequacy, from memory it last came before Council for a review in December 2007.

*6. So ignore all the High Court Decisions on Political expression, ignore the Commonwealth Crimes Act and the Queensland Criminal Code' sections on **Interfering with Political Liberty by threats or intimidation of any kind, hinders or interferes with the free exercise or performance**, by any other person, of any **political right** or duty, shall be guilty of an offence.*

Penalty: Imprisonment for 3 years.

*Ignore **Section 854AA of the Local Government Act which states NO JURISDICTION TO MAKE LOCAL LAWS AND SUBORDINATE LOCAL LAWS PROHIBITING PLACEMENT OF ELECTION SIGNS OR POSTERS***

(1) A local government has no jurisdiction to make a local law or subordinate local law prohibiting, in its area, the placement of election signs or posters for an election under this Act, the City of Brisbane Act 1924, the Electoral Act 1992 or the

Commonwealth Electoral Act 1918 (Cwlth).

(2) A local law or subordinate local law, to the extent it is contrary to subsection (1), is of no effect.

(3) In this section—election signs or posters means signs or posters that are able, or are intended—

(a) to influence a person about voting at an election; or

(b) to affect the result of an election.

Ignore the reasons why the State Government has removed this jurisdiction from councillors which is the same reason why councillors have no jurisdiction to make laws controlling ‘How to vote Cards’ and that is because Councillors have personal interests in the subject of these laws which are again contrary to provisions of the Local Government Act 93.

Ignore, 31 Inconsistency with State law

(1) If a State law and a local law (whether made before or after the State law) are inconsistent, the State law prevails over the local law to the extent of the inconsistency.

Ignore Peoples Common Law right to Free Political expression and control over their own property, the same right that gives Council the power to control signs and what it does on its property and the property it is responsible for.

Ignore all this and you still have no legitimate legislation to enforce your prohibitions on members of the public placing an electoral sign on their own private property. Council’s document subordinate Local Law 11.1 attempts to allow candidates under certain conditions to place political signs but it attempts to prohibits the general public from utilizing its freedom to political expression.

*Even ignoring all of the above the Subordinate Law No 11. 1 (**Election Advertisements**) has plainly no authority or legitimacy and the Cooloola Shire Council should acknowledge the facts and carry the resolution.*

Report: (Acting Director of Corporate Services – B Hayes and Director of Planning & Development – M Hartley)

It is anticipated that a late report will be prepared in time for the meeting on Tuesday.

SECTION 4: PETITIONS

**SECTION 5: ADOPTION OF ADMINISTRATION AND
FINANCE COMMITTEE
RECOMMENDATIONS**

(MOTION: That the Recommendations of the Administration and Finance Committee Meeting held on 22 January 2008 as presented, be received.)

(MOTION: That the Recommendations of the Administration and Finance Committee Meeting held on 22 January 2008 (as amended), be adopted.)

**SECTION 6: REPORT BY PLANNING &
ADMINISTRATION & FINANCE
COMMITTEE CHAIRMAN (Cr I.T Petersen)**

**SECTION 7: ADOPTION OF SHIRE GROWTH &
ECONOMIC DEVELOPMENT COMMITTEE
RECOMMENDATIONS**

(MOTION: That the Recommendations of the Shire Growth & Economic Development Committee Meeting held on 22 January 2008 as presented, be received.)

(MOTION: That the Recommendations of the Shire Growth & Economic Development Committee Meeting held on 22 January 2008 (as amended), be adopted.)

SECTION 8: REPORT BY SHIRE GROWTH & ECONOMIC DEVELOPMENT COMMITTEE CHAIRMAN (Cr J. Watt)

SECTION 9: CORPORATE SERVICES DEPARTMENT MATTERS (Cr M.J Venardos OAM, C. Manson, B. Hayes)
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9/1 Letter of Support for Gold Rush Committee

Re: Letter of Support for Gold Rush Committee
From: Sue Manton (President)
File:
Date: 24th January 2008

"I was hoping that the following letter could be read at the next general meeting of the Cooloola Shire Council to be held on Tuesday 29th January. On behalf of the Gold Rush Committee we request a letter of support from council giving their backing in a form similar to previous years of the Gympie Gold Rush Festival for completion of a Qld Events submission due on Feb 1st.

My apologies for the lateness of this request, however there has been some confusion and reshuffling of the committee in recent times. We understand that with impending elections decision making is hampered however support of Cr Ian Peterson's motion that the council makes an agreement to give ongoing backing to these "Iconic" events would be greatly appreciated.

Never more than now is there a time to get behind the gold rush festival and come together as a community to celebrate and a time to show pride in all the great things in this region.

A meeting was held of the gold rush committee to discuss ideas and Françoise Gregory was appointed as secretary after Cr Jan Watt needed to stand down due to other commitments. There was overwhelming support by the committee

to return to a twilight parade thru Mary Street and to use the wealth of talent from this region. This would require the consent of the Cooloola shire Council.

Support of this festival is apolitical and must remain that way with a commitment by councillors across all walks to support this “iconic” celebration of Gympie’s history.

As president I will be calling on every member of this region, community leaders, business owners, service clubs, church groups, community organisations and local schools to put their minds to thinking of ways to enrich this festival and make it something we as a community can be proud of and a time of coming together as a community and celebrating the good things about life then and now.

Schools with there commitment to provide time to the study of Australian History could make it the focus of their unit to study the local history. Guided school tours of the Historical Museum with gold panning competition encouraged in the schools may be a feature requiring the support of the Historical Society.

Arts & drama units include some focus on the gold Rush Parade making it colourful, entertaining, and involving our youth in creative ways in celebrating their community. Gold Rush ambassador Brendan Sauer is looking forward to working with these groups along with staging a gala Ambassador’s Ball to kick off the weeks festivities.

I would be happy to address the council meeting or provide any additional information you may require. Thank you for your help in this matter.”

Recommendation: (Mayor – Cr M. J Venardos OAM)

That Council support in principle, the Gympie Gold Rush Festival Committee for the 2008 Gympie Gold Rush Festival and Twilight Parade through Mary Street, and that this resolution be forwarded to the Gympie Regional Council.

9/2	Environmental Impact Statement – Traveston Crossing Dam
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Re: Environmental Impact Statement – Traveston Crossing Dam
 From: Hon Warren Truss MP, Federal Member for Wide Bay, PO Box 283,
 Maryborough Qld 4650
 File: CG07/00234 Doc ID: 871401
 Date: 22 January 2008

“Thank you for providing me with a copy of Council’s submission on the Environmental Impact Statement for the proposed Traveston Crossing Dam.

As you are no doubt aware, I share your concerns about the Queensland Labor Government’s ill-conceived proposal to build the Traveston Crossing Dam. There are many cheaper and more efficient ways to provide better water to Brisbane – faster and in greater quantities. The State Government should axe the project now on social, engineering, environmental and economic grounds and start work on some of the better alternative options.

While it was a State Government decision to build the Dam, the Australian Government does have a role in assessing its environmental impact. On 29 November 2006, the proposal to build the dam was declared a ‘controlled action’ by the former Australian Government Minister for Environment and Heritage, Senator the Hon Ian Campbell, under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). This decision acknowledges that the proposed dam could have a significant impact on matters protected by the EPBC Act and that a rigorous and transparent assessment of those impacts should be undertaken.

The dam can now not go ahead without Commonwealth environmental approval.

The Australian Government’s Department of Environment and Heritage is required to independently assess the Environmental Impact statement (EIS) proposed by the applicant.

You may be aware that Queensland Water Infrastructure Pty Ltd (QWI) have recently acknowledged some inconsistencies between the version of the Traveston Crossing Dam Environmental Impact Statement circulated to the public and the one originally authorised by the Queensland State Government Coordinator-General. QWI amended the publicly released version and agreed to extend the public comment submission date to the 14th January 2008.

With the change in the Federal Government, the decision on whether the Dam can go ahead will now be made by the Hon Peter Garrett MP, the new Minister for the Environment.

I am concerned that Mr Garrett demonstrated little or no knowledge of the Traveston Crossing Dam when questioned on the issue some months ago. While he has previously declined all requests to visit the site to see the proposed project for himself, I understand that he has stated he will visit the Wide Bay before deciding the fate of the proposed Traveston Crossing Dam.

There must also be concerns as to whether the incoming Labor Federal Government will be willing to overturn the decision of the State Labor Government to build the Dam, irrespective of the importance of the environmental concerns.

Nonetheless, I will continue to fight this proposal and to highlight the disastrous, economic, social and environmental impacts of this proposal. I will also continue to point out that there are better options available which will deliver more water to Brisbane, more reliably and cheaper, than the Traveston Crossing Dam.

I have read your submission opposing the Traveston Crossing Dam with interest and thank you for providing me with a copy.”

Recommendation: (Acting Chief Executive Officer – C Manson)

That the information be received and Mr Truss thanked for his comments.

SECTION 10: LATE ITEMS

SECTION 11: GENERAL BUSINESS

SECTION 12: IN COMMITTEE MATTERS