

DEPUTATION TO CITY OF MELVILLE COUNCIL  
AGENDA BRIEFING FORUM  
7<sup>TH</sup> DECEMBER 2021

LATE ITEM M21/5889 - AMENDMENT TO MINUTES OF THE ORDINARY MEETING  
OF COUNCIL HELD 21 SEPTEMBER 2021

# TOPICS COVERED

- Several inaccurate statements made in the report.
- Several statements which are superfluous, irrelevant and have the capacity to mislead.
- The importance of keeping accurate minutes.
- Regulatory and legislative requirements.
- The officers' recommendation is to only make a minor amendment to one of the Council's responses which was omitted in the September 2021 minutes. This does not resolve the problem of incorrect information being recorded in the document.

# OFFICERS' INSERTIONS INTO COUNCILS ANSWERS TO PUBLIC QUESTIONS

- Officers did not declare their conflicts of interest to the Council regarding their legal action against Cr Kepert when inserting their own wordings to the public questions concerning the matter.
- Officers did not inform Council that they made their own editions to the Council's responses.
- On reflection, it may have been wise for the Presiding Member to rule Mr Aubrey of Leeming's public questions of the September 2021 OMC out of order on the grounds that it referred to confidential legal proceedings and contained untruthful, defamatory remarks.
- The officers have inserted categorically incorrect information to the 8 public questions asked by Mr Aubrey of Leeming.
- However, the Council has now given their responses to Mr Aubrey of Leeming and the minutes should accurately reflect those.

# INACCURACIES OF THE REPORT

## KEY ISSUES / SUMMARY

- At the Ordinary Meeting of Council held 21 September 2021, a series of questions were submitted to Question Time by Mr R Aubrey of Leeming.
- Responses were provided to the questions, in writing immediately prior to the meeting, by former Councillor Steve Kepert.
- The minutes of the 21 September 2021, omit the response to Question 11 as provided by former Councillor Kepert.
- The minutes of the 21 September 2021 Ordinary Meeting of Council were confirmed at the Ordinary Meeting of Council held 12 October 2021.
- This report seeks the Council's approval to amend the minutes of the Ordinary Meeting of Council held 21 September 2021 to include the response provided in writing by former Councillor Kepert to Question 11 on page 10.

## BACKGROUND

At the Ordinary Meeting of Council was held 21 September 2021, Mr R Aubrey of Leeming submitted a series of 11 questions to public question time. During the meeting, former Councillor Steve Kepert advised that he had responses to the questions and with the permission of the Presiding Member, verbally responded to the questions at the meeting. Former Councillor Kepert also provided a copy of the responses, via email to the administration just prior to the meeting. The responses received in writing were included in the minutes of the meeting, which were published on the City's website on Friday 24 September 2021.

The minutes of the meeting omit the written response provided by former Councillor Kepert to Question 11 on page 10.

- Irrelevant text
- The Council provided responses to Mr Aubrey's public questions.
- Unknown why officers are making irrelevant reference to former Councillor Kepert.
- 8 public questions asked by Mr Aubrey of Leeming, not 11.

# INACCURACIES OF THE REPORT

## DETAIL

It has come to the attention of the administration that respect to Question 11 submitted by Mr Aubrey, former Councillor Kepert provided the following written response:

"The role of the Mayor is set out in section 2.8 of the *Local Government Act 1995*."

## STAKEHOLDER ENGAGEMENT

### I. COMMUNITY

Former Councillor Kepert has brought this matter to the attention of the administration.

- Irrelevant text highlighted
- The Council did respond to Mr Aubrey's public question.
- Categorically incorrect statement. Former Councillor Kepert has at no point brought this to the attention of the administration other than at the September 2021 OMC.
- If this were true then why only one change proposed?

# INACCURACIES OF THE REPORT

## STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
Inconsistency in information provision may lead to a perception that a declaration of interest was not made	Moderate consequences which are likely, resulting in a <b>Moderate</b> level of risk	Amendment to the minutes will ensure consistency in information provision.

## POLICY IMPLICATIONS

There are no policy implications associated with this report.

## ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could resolve not to include the requested amendment, which would mean that the Minutes of the Ordinary Meeting of Council held 21 September 2021, would not accurately reflect the responses provided during Question Time.

## CONCLUSION

The inclusion of the proposed amendment in the minutes of the 21 September 2021 Ordinary Meeting of Council will ensure the minutes are an accurate record of the meeting proceedings and the responses provided as part of Question Time.

- Conflicting statement. The insertions by the officers at most are inconsistent; cannot be made by the administration or are categorically incorrect.
- Proposed amendments by officers means inconsistent message will remain.
- The unannounced changes made by the officers do not accurately reflect the responses provided during question time. Furthermore, the officers recommended change continues to reflect inaccurate records.

# INACCURACIES OF THE REPORT

## OFFICER RECOMMENDATION (5889)

That the Council approve the amending the response of Question 11 on page 10 of the minutes of the Ordinary Meeting of Council held 21 September 2021, by deleting the words "Cr Kepert did not provide a response to this question" and replacing them with

**"Response as provided by Cr Kepert:**

The role of the Mayor is set out in section 2.8 of the *Local Government Act 1995*."

## APPROVAL

- Conflicting statement. The insertions by the officers at most are inconsistent; cannot be made by the administration or are categorically incorrect.
- Proposed amendments by officers means inconsistent message will remain.
- The unannounced changes made by the officers do not accurately reflect the responses provided during question time. Furthermore, the officers recommended change continues to reflect inaccurate records.

# THE DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES STATES

- “The minutes of council meetings are a record of the decisions made by a governing body. As such, they need to be: ...
  - ... an accurate record of what occurred at the meeting in question;”
- *“The minutes should not contain an inaccurate or untrue record.”*
- *“... a presiding member may refuse to accept questions that relate to the personal affairs or actions of council members or employees.*
- *“This would also apply to questions relating to confidential matters, legal advice, legal proceedings or other legal processes; or have been answered by earlier questions or questions at a previous meeting.”*

# *Criminal Code Act Compilation Act 1913*

The term *forge* in relation to a record means to make, alter or deal with the record so that the whole of it or a material part of it —

- (a) purports to be what in fact it is not; or
- (b) purports to be made by a person who did not make it; or
- (c) purports to be made by authority of a person who did not give that authority;

# *Criminal Code Act Compilation Act 1913*

## **85. Falsification of record by public officer**

Any public officer who, in the performance or discharge of the functions of his office or employment, corruptly —

- (a) makes any false entry in any record; or
- (b) omits to make any entry in any record; or
- (c) gives any certificate or information which is false in a material particular; or
- (d) by act or omission falsifies, destroys, alters or damages any record; or
- (e) furnishes a return relating to any property or remuneration which is false in a material particular; or
- (f) omits to furnish any return relating to any property or remuneration, or to give any other information which he is required by law to give,

is guilty of a crime and is liable to imprisonment for 7 years.

*[Section 85 inserted: No. 70 of 1988 s. 16; amended: No. 8 of 2002 s. 5; No. 70 of 2004 s. 8.]*

# *Criminal Code Act Compilation Act 1913*

## **409. Fraud**

- (1) Any person who, with intent to defraud, by deceit or any fraudulent means —
- (a) obtains property from any person; or
  - (b) induces any person to deliver property to another person; or
  - (c) gains a benefit, pecuniary or otherwise, for any person; or
  - (d) causes a detriment, pecuniary or otherwise, to any person; or
  - (e) induces any person to do any act that the person is lawfully entitled to abstain from doing; or
  - (f) induces any person to abstain from doing any act that the person is lawfully entitled to do,

is guilty of a crime and is liable —

- (g) if the person deceived is of or over the age of 60 years, to imprisonment for 10 years; or
- (h) in any other case, to imprisonment for 7 years.

# CONCLUSION

- An opportunity to correct the minutes was afforded the Council during the acceptance of minutes motion held at the October 2021 ordinary meeting of Council.
- A motion to correct the minutes was raised by Cr Kepert, seconded by Cr Pazolli.
- The motion was rejected by Councillors Barton, Robartson, Wheatland, McPhail, Robins, Fitzgerald, Woodall, Pazolli, Mair, Sandford, Barber and Mayor Gear.
- The regulator is clear that minutes should be an accurate record of meetings.
- The September 2021 OMC minutes should be amended to reflect accurate information and events.
- The September 2021 OMC minutes should be amended to accurately record the Council's answers to the public questions asked.
- Unknown why this subject matter is such a difficult issue with so much resistance to truth.