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Chapman Valley
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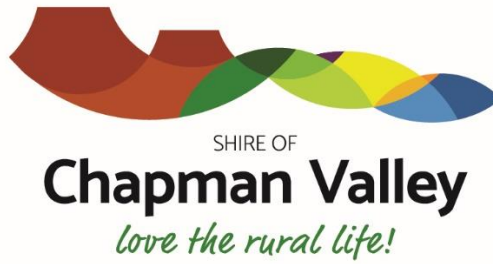
SPECIAL COUNCIL MEETING

Notice is hereby given that a special meeting
of Council will be held on **Monday 21 October 2019**
at the Council Chambers Nabawa, starting at 6:00pm

Maurice Battilana
CHIEF EXECUTIVE OFFICER

CONFIRMED MINUTES

21 OCTOBER 2019



DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Meeting does so at that person's or legal entity's own risk.

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on WRITTEN CONFIRMATION of the outcome of the application or request of the decision made by the Shire of Chapman Valley.

A handwritten signature in black ink, appearing to read "M. Battilana", is written over a large, light-colored circular scribble.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

**SHIRE OF CHAPMAN VALLEY
CONFIRMED MINUTES OF THE SPECIAL MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS NABAWA ON
MONDAY 21 OCTOBER 2019 AT 6:00PM**

Disclaimer (To be provided to Visitors Present)

ORDER OF BUSINESS:

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Chief Executive Officer, Mr Maurice Battilana welcomed Elected Members and Staff and declared the meeting open at 6.05pm announcing he would preside over the meeting until the election of a President, which is in accordance with legislation.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

3.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Present

a. Councillors

Member
Cr Anthony Farrell (President)
Cr Kirrilee Warr (Deputy President)
Cr Nicole Batten
Cr Darrell Forth
Cr Peter Humphrey
Cr Trevor Royce

b. Staff

Officer	Position
Mr Maurice Battilana	Chief Executive Officer
Mr Simon Lancaster	Deputy Chief Executive Officer
Mrs Dianne Raymond	Manager of Finance & Corporate Services (Minute Taker)

c. Visitors

Name
Nil

Apologies

Cr Ian Maluish	

4.0 DISCLOSURE OF INTEREST

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Section 5.60A:

*"a person has a **financial interest** in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."*

Section 5.60B:

*"a person has a **proximity interest** in a matter if the matter concerns –
(a) a proposed change to a planning scheme affecting land that adjoins the person's land; or
(b) a proposed change to the zoning or use of land that adjoins the person's land; or
(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."*

Regulation 34C (Impartiality):

*"**interest** means an interest that could, or could reasonably be perceived to, adversely affect the **impartiality** of the person having the interest and includes an interest arising from kinship, friendship or membership of an association."*

Item No.	Member/Officers	Type of Interest	Nature of Interest
Nil			

5.0 SWEARING IN OF COUNCILLORS

The Chief Executive Officer conducted the swearing in of the following Councillors:

- Cr Anthony Farrell
- Cr Peter Humphrey
- Cr Trevor Royce

6.0 ELECTIONS

6.1 President – 2 year term

The Chief Executive Officer advised the following nomination had been received in writing (and accepted) for the position of President:

- Cr Anthony Farrell

The Chief Executive Officer called for further nominations of which none were forthcoming.

The Chief Executive Officer announced Cr Anthony Farrell as elected unopposed to the position of President of the Shire of Chapman Valley for the period of two years ending at the date of the 2021 Ordinary Local Government Elections.

Cr Farrell was then sworn in as President of the Shire of Chapman Valley.

The CEO vacated the chair and the newly elected President presided over the remainder of the meeting.

Cr Farrell thanked Councillors for their support and said it was an honour to be elected President for the next two years. Cr Farrell stated he hoped other Elected Members would take on roles of Presiding Members of Committees, Working Groups, etc. to obtain an understanding of the position.

Deputy President – 2 year term

The President requested the Chief Executive continue with the Election Process.

The Chief Executive Officer advised the following nomination had been received in writing (and accepted) for the position of Deputy President:

- Cr Kirrilee Warr

The Chief Executive Officer called for further nominations of which none were forthcoming.

The Chief Executive Officer announced Cr Kirrilee Warr as elected unopposed to the position of Deputy President of the Shire of Chapman Valley for the period of two years ending at the date of the 2021 Ordinary Local Government Elections.

Cr Warr was then sworn in as Deputy President of the Shire of Chapman Valley.

7.0 COMMITTEES, WORKING & ADVISORY GROUPS

The establishment and legislative conditions of local government Committees is detailed in the *Local Government Act 1995* (see **Attachment 1** for details). Council also select representation on the various Working and Advisory Groups, which are not subject to the legislative requirements of the Act.

Due to the need for the Shire to conduct an extraordinary election to fill one unfilled vacant position on Council at the time nominations closed for the 2019 Ordinary Local Government Elections, the query was made at the September 2019 OCM if the Committees, Working and Advisory Groups could be deferred until after the completion of the Extraordinary Election process.

Council can defer the Committees, Working and Advisory Groups process; however, this will result in Council not having any Committees, Working and Advisory Groups in place until this matter is addressed as the legislation states the tenure on a Committee expires at the next Ordinary Election Day (i.e. 19/10/2019 in this instance).

Council does have Committee, Working and Advisory Group meeting imminent in the near future i.e.

- ~ Finance, Audit & Risk Management Committee – 18/19 Audit Meeting(s);
- ~ Tourism & Events Working Group – Australia Day Awards & Event Coordination;
- ~ Batavia Local Emergency Management Committee – It is being recommended this Committee representation be dealt with at the Special Meeting due to need for the Shire of Chapman Valley to Chair the Committee after the October 2019 Ordinary Elections.

Therefore, it would not be wise to defer appointments to these Committees, Working and Advisory Groups until:

- i. November 2019 OCM – If an Election ***is not*** required (i.e. only one nomination received); or
- ii. December 2019 OCM – If an Election ***is*** required (i.e. more than one nomination received)

As mentioned in the email from Simon Lancaster (Acting CEO at the time) the option are:

“To address both this requirement of the Act and the raised query relating to fairness, Council might wish to consider and discuss the merits of either of the following at the 21/10/19 Special Council Meeting:

- *appointing new Councillors to the various Committees and Working Groups (noting there is the ability for this matter to be later reviewed and a subsequently elected Councillor to nominate for any of the Committees or Working Groups); **or***
- *resolving to carry over all positions on the Committees and Working Groups and then dealing with the matter of new appointments pending the outcome of the extraordinary election process (noting that under Section 5.11(1)(a) the retiring Councillor would no longer have Committee membership but this would not present an issue as all Committees and Working Groups would remain compliant during the interim period in regards to legislated numbers even with the retirement of this Councillor)."*

It will be noted Cr Trevor Royce is not mentioned as a representative on any Committee, Working & Advisory Group due to the review after Councillor Royce discontinued as an Elected Member in December 2019.

As Cr Forrester is no longer and Elected Member the carry-over recommendation excludes her from the interim appointments.

The intention of Item 3 the Staff Recommendation is to retain the status quo other than having Cr Royce's replace Cr Forrester as member on the Committees, Working & Advisory Groups where Cr Forrester is currently listed and then do a full review of all Committees, Working & Advisory Groups after the completion of the Extraordinary Election process.

STAFF RECOMMENDATION

Council:

1. Appoint the following representatives and Chairperson to the Batavia Local Emergency Management Committee:
 - ~ Cr _____(Chairperson)
 - ~ Cr _____
2. Discontinue the Yuna Memorial Hall Working Group due to the purpose of this Group being completed;
3. Carry over all other positions on the Committees, Working and Advisory Groups, other replacing Cr Forrester with Cr Royce, and then review these appointments at an Ordinary Council Meeting after the completion of the Extraordinary Election process.

COUNCIL RESOLUTION

MOVED: CR BATTEN

SECONDED: CR HUMPHREY

Council:

1. **Appoint the following representatives and Chairperson to the Batavia Local Emergency Management Committee:**
 - ~ **Cr Humphrey (Chairperson)**
 - ~ **Cr Warr**
2. **Discontinue the Yuna Memorial Hall Working Group due to the purpose of this Group being completed;**
3. **Carry over all other positions on the Committees, Working and Advisory Groups, other than:**

- i. replacing Cr Forrester with Cr Royce;
- ii. adding Cr Royce to the Finance & Audit Committee; and
- iii. then review these appointments at an Ordinary Council Meeting after the completion of the Extraordinary Election process.

CARRIED
Voting 6/0
Minute Reference SCM 10/19-1

Reason for Deviation from Staff Recommendation: More members considered necessary on the Finance & Audit Committee in the interim until a full review of all appointments was undertaken at a later date.

Council Committees - Council Members Only – Local Government Act 1995 – Section 5.9(2)(a)
 (ABSOLUTE MAJORITY REQUIRED FOR COMMITTEE APPOINTMENTS)
 (Must be 3 or More Representatives)

	Purpose/Delegations	Appointed Representatives
Building & Disability Services Committee	<p>Will meet at least annually to inspect all Shire Buildings/Properties and then subsequently to: Review preliminary costings for proposed works for consideration in draft Council Budget; Review the Capital & Building Works Program; Disability Access & Inclusion Plan; and Any other building/property items referred to the Committee by Council.</p> <p>Delegation – Nil</p>	<p><u>5 x Councillors</u> Cr Farrell Cr Royce Cr Humphrey Cr Maluish Cr Forth</p> <p><u>Observers:</u> CEO Building Surveyor</p>
Finance & Audit Committee	<p>Will meet on an annual basis to provide a review of Council's ongoing financial situation, provide a forum for ongoing review of strategic management plan for Council operations and discuss the Audit System.</p> <p>Delegation – Nil</p>	<p><u>4 x Councillors</u> Cr Farrell Cr Forth Cr Humphrey Cr Royce</p> <p><u>Observers:</u> CEO Manager Finance & Corporate Services Accountant</p>
Road Infrastructure Committee	<p>Undertake an annual review the following: ~ Road Works Program; ~ Road Hierarchy; ~ Heavy Haulage Vehicle Permit Roads; and ~ Any other works infrastructure item referred to the Committee by Council. ~ Review the plant replacement program</p> <p>Delegation – Nil</p>	<p>All Councillors</p> <p><u>Observers:</u> CEO Manager Works & Services Deputy CEO Works Leading Hand</p>

Groups - Steering, Advisory, Working, etc.
(SIMPLE MAJORITY REQUIRED)
(Number not legislated)

<p>Bush Fire Brigades Group Management Advisory Committee</p>	<p>Meet at least annually to:</p> <p>Elect Office Bearers; Review previous year fire season; Review the Shire’s Fire Notice; Liaise with external organisations (e.g. DFES, DPAW); Review the DFES Capital & Operational Grants; Any other bush fire related items referred to the Committee by Council.</p> <p>Delegation – Nil</p>	<p><u>President (Presiding Member) and 2 x Councillor</u></p> <ul style="list-style-type: none"> • Cr Farrell (President) • Cr Royce • Vacant <p>CBFCO DCBFCO All Brigade FCOs Chief Executive Officer Senior Ranger</p> <p><u>Observers</u> 1 x DFES Rep. 1 x DPAW Rep.</p>
<p>Batavia Local Emergency Management Committee (BLEMC)</p>	<p>Meet as required in accordance with legislation and Council endorsed Local Emergency Management Arrangements (LEMA) to:</p> <p>Review the LEMA & Recovery Plan; Implement Emergency Exercises as required; Any other emergency management related items referred to the Committee by Council.</p> <p><i>(Note: The BLEMC Chairperson is rotated amongst the three LGAs involved. Shire of Chapman Valley will take on the Chair in October 2019. Appointment is recommended as being an Elected Member, yet is not legislated to be so)</i></p> <p>Delegation – Nil</p>	<p><u>2 x Councillor</u></p> <ul style="list-style-type: none"> • Cr Humphrey • Cr Warr <p>Chief Executive Officer</p>

<p>Landcare & Environmental Advisory Group</p>	<p>To apply for grant funding from third party sources to finance appropriate projects within the Shire of Chapman Valley:</p> <p>a) Delegate authority to the Chief Executive Officer to endorse grant applications/projects if funding resources are available within the Council's adopted budget;</p> <p>b) If funding resources are not available within the adopted Council Budget for specific grant applications/projects, present the application to Council for endorsement, if possible, prior to the closure dates for the grant funding programs. Otherwise retrospective Council endorsement to commit funding resources will be required. All applications submitted, which require Council endorsement for additional funding resources, will be subject Council endorsement (i.e. the Committee does not have delegated authority to commit Council funding resources).</p> <p>c) Provide advice and assistance to the Chief Executive Officer and Shire staff in the managing of the Landcare Grant funds.</p> <p>d) Provide recommendations to Council on any Landcare Contracts and Consultancy agreements.</p> <p>e) Provide a Draft Annual Budget for Landcare to Council for consideration as part of the Annual Budget process.</p>	<p><u>2 x Councillors</u></p> <ul style="list-style-type: none"> • Cr Farrell • Cr Batten <p><u>Observers</u></p> <p>Chief Executive Officer Deputy CEO NACC Rep. Landcare & Environment Consultant</p>
<p>Community Growth Fund Advisory Group</p>	<p>Evaluate application received for funding under the Shire of Chapman Valley Community Growth Fund program in accordance with guideline, policies and procedures set by Council and make recommendations to Council to allocate funds</p> <p>Delegation – Nil</p>	<p><u>President (Presiding member) & 3 x Councillors (Members)</u></p> <ul style="list-style-type: none"> • Cr Farrell • Cr Warr • Cr Royce • Cr Maluish <p><u>1 x Councillor (Proxy)</u></p> <ul style="list-style-type: none"> • Nil <p>Chief Executive Officer Manager Finance & Corp Svc Comm. Develop. Officer</p>

Tourism & Events Working Group	<p>Will meet on an 'as needs' basis only to:</p> <ul style="list-style-type: none"> ~ Evaluate annual Australia Day Award Nominations and submitting these to Council in readiness for presenting the awards at the Shire's annual Australia Day Function; ~ Assist with coordinating the annual Australia Day function(s); ~ Discuss all other item(s) referred to them by Council in the areas of tourism and events. <p>Delegation – Nil</p>	<p><u>3 x Councillors</u></p> <ul style="list-style-type: none"> • Cr Royce • Cr Humphrey • Cr Batten <p>CEO Deputy CEO Comm. Development Officer 2 x Community Representatives for Australia Day award nominations (recommend past winner as one rep.)</p>
Coronation Beach Masterplan Steering Group	<p>To review the Coronation Beach Masterplan.</p> <p>Delegation – Nil</p>	<p><u>1x Councillor</u></p> <ul style="list-style-type: none"> • Cr Forth (Chairperson) <p>DCEO Department of Sport & Recreations Neighbouring Landowners Community / User Group Representatives</p>
CURRENTLY UNDER REVIEW		
Bill Hemsley Park Management Committee	<p>The role of the Bill Hemsley Park Management Committee (Formerly Parkfalls Management Committee) as agreed at the 17 April 2013 Council meeting is to make recommendation to Council for its consideration as to development and expenditure within the park</p> <p>Delegation – Nil</p>	<p><u>2 x Councillors</u></p> <ul style="list-style-type: none"> • Cr Royce (Chairperson) • Cr Humphrey <p>2 x Parkfalls Residents Assoc. 1x Developer</p> <p><u>Observers:</u></p> <ul style="list-style-type: none"> ~ CEO ~ Deputy CEO

Representatives on External Organisations (SIMPLE MAJORITY REQUIRED)		
Northern Country Zone (WALGA)	Not Applicable Delegation – Nil	<u>2 x Councillors</u> <ul style="list-style-type: none"> • Cr Farrell • Cr Warr Chief Executive Officer
Sub-Regional Road Group Committee	Not Applicable Delegation – Nil	<u>2 x Councillors</u> <ul style="list-style-type: none"> • Cr Farrell • Cr Warr Chief Executive Officer Manager Works & Services
Chapman Valley Agricultural Society	Not Applicable Delegation – Nil	<u>1 x Councillor</u> <ul style="list-style-type: none"> • Cr Batten <u>1 x Proxy</u> <ul style="list-style-type: none"> • Cr Forth
Mid West Development Assessment Panel (DAP)	Not Applicable Delegation – Nil Note: Mandatory training must be undertaken prior to serving on panel.	<u>2 x Councillors (Members)</u> <ul style="list-style-type: none"> • Cr Farrell • Cr Royce <u>2 x Councillors (Proxies)</u> <ul style="list-style-type: none"> • Cr Warr • Cr Humphrey

8.0 CLOSURE

There being no further business the President thanks everyone for their attendance and declared the meeting closed at 6:42pm.

5.8. Establishment of committees

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

* Absolute majority required.

5.9. Committees, types of

- (1) In this section —
other person means a person who is not a council member or an employee.
- (2) A committee is to comprise —
- (a) council members only; or
 - (b) council members and employees; or
 - (c) council members, employees and other persons; or
 - (d) council members and other persons; or
 - (e) employees and other persons; or
 - (f) other persons only.

5.10. Committee members, appointment of

- (1) A committee is to have as its members —
- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).
- * Absolute majority required.
- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —
- (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A. Deputy committee members

- (1) *The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.
* Absolute majority required.*
- (2) *A person who is appointed as a deputy of a member of a committee is to be —*
 - (a) *if the member of the committee is a council member — a council member; or*
 - (b) *if the member of the committee is an employee — an employee; or*
 - (c) *if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or*
 - (d) *if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.*
- (3) *A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*
- (4) *A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.
[Section 5.11A inserted by No. 17 of 2009 s. 20.]*

5.11. Committee membership, tenure of

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
 - (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
 - (b) *the person resigns from membership of the committee; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,**whichever happens first.*
- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*
 - (a) *the term of the person's appointment as a committee member expires; or*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,**whichever happens first.*

5.12. Presiding members and deputies, election of

- (1) *The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —*
 - (a) *to "office" were references to "office of presiding member"; and*
 - (b) *to "council" were references to "committee"; and*
 - (c) *to "councillors" were references to "committee members".*
- (2) *The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —*
 - (a) *to "office" were references to "office of deputy presiding member"; and*
 - (b) *to "council" were references to "committee"; and*
 - (c) *to "councillors" were references to "committee members"; and*

(d) to “mayor or president” were references to “presiding member”.

5.13. Deputy presiding members, functions of

If, in relation to the presiding member of a committee —

- (a) the office of presiding member is vacant; or
- (b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,

then the deputy presiding member, if any, may perform the functions of presiding member.

5.14. Who acts if no presiding member

If, in relation to the presiding member of a committee —

- (a) the office of presiding member and the office of deputy presiding member are vacant; or
- (b) the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member,

then the committee members present at the meeting are to choose one of themselves to preside at the meeting.

5.15. Reduction of quorum for committees

The local government may reduce* the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.

* Absolute majority required.

5.16. Delegation of some powers and duties to certain committees

- (1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.
* Absolute majority required.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
 - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

5.17. Limits on delegation of powers and duties to certain committees

- (1) A local government can delegate —
 - (a) to a committee comprising council members only, any of the council’s powers or duties under this Act except —
 - (i) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and
 - (ii) any other power or duty that is prescribed;

- and*
- (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and*
- (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —*
 - (i) the local government's property; or*
 - (ii) an event in which the local government is involved.*
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).*
[Section 5.17 amended by No. 49 of 2004 s. 16(2).]