Dear Member

NOTICE OF MEETING

Notice is hereby given pursuant to the Fleurieu Regional Aquatic Centre Authority Charter and Section 87(7) of the Local Government Act, 1999, as amended that a Confidential Meeting of the Fleurieu Regional Aquatic Centre Authority has been called for:

DATE: Friday 28 August 2020
TIME: 9:30 am
PLACE: Meeting Room, Fleurieu Aquatic Centre, 4 Ocean Road, Chiton

Please find enclosed a copy of the Agenda for the meeting.

Yours faithfully

Steve Mathewson
Chairperson
Public Fleurieu Regional Aquatic Centre Authority Agenda – 28 August 2020

Date & Time: Friday 28 August 2020 at 9:30am
LOCATION – Meeting Room, Fleurieu Aquatic Centre – 4 Ocean Road Chiton

1. ATTENDANCE
   Steve Mathewson (Chairperson)
   Mark Easton (Independent Member)
   Trish Kirkland (Independent Member)
   Councillor David Kemp (City of Victor Harbor)
   Councillor Margaret Gardner (Alexandrina Council)
   Councillor Peter Charles (Deputy Elected Member Representative, City of Victor Harbor)
   Kellie Knight-Stacey (Director Corporate & Customer Service, City of Victor Harbor)

2. APOLOGIES
   Elizabeth Williams (General Manager Resources, Alexandrina Council)

3. MINUTES OF PREVIOUS MEETINGS
   3.1 Minutes of previous meeting – for confirmation: 26 June 2020

4. BUSINESS ARISING
   Nil

5. REPORTS
   5.1 Assistance - Great Southern Swim Club
   5.2 Request for change of use for capital budget

6. MATTERS FOR DISCUSSION
   6.1 Correspondence - City of Victor Harbor

7. VERBAL UPDATES
   7.1 Solar
   7.2 Update of the Asset Register and broader asset plan to account for the lifecycle of equipment

8. URGENT BUSINESS WITHOUT NOTICE

9. CONFIDENTIAL REPORTS
   9.1 Minutes of previous meeting – for confirmation: 26 June 2020
   9.2 Executive Officer Recruitment
   9.3 Competitive Neutrality Review; Fee Review; and Implementation Planning – presentation
   9.4 YMCA Contract Extension
NEXT MEETING
To be advised at a later date.

CLOSURE
3. MINUTES OF PREVIOUS MEETINGS

<table>
<thead>
<tr>
<th>To:</th>
<th>FRAC Authority Board</th>
<th>From:</th>
<th>Chairperson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject:</td>
<td>3. Confirmation of Public Minutes 26 June 2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meeting date:</td>
<td>28 August 2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reference(s):</td>
<td>Local Government Act 1999</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>FRAC Authority Charter v2.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consultation:</td>
<td>Nil</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attachments:</td>
<td>3.1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**PURPOSE**

To confirm the Public Minutes of meeting held 26 June 2020.

Attachment 3.1

**Recommendation**

That the Public Minutes of the meeting held 26 June 2020 be received.

4. BUSINESS ARISING
To: FRAC Authority Board  From: YMCA Area Manager

Subject: 5.1 Assistance – Great Southern Swimming Club

Meeting date: 28 August 2020
Reference(s): Nil
Consultation: FRACA Chairperson
Centre/Area Manager, YMCA SA
Attachments: Nil

PURPOSE
The purpose of this report is to request Fleurieu Regional Aquatic Centre Authority ('Authority') consideration of further assistance to the Great Southern Swimming Club.

RECOMMENDATION
That the Authority extend the offer to the Great Southern Swimming Club of a 50% waiver of lane hire fees to 30 June 2021 commencing October 1st and undertake quarterly reviews until June 2021 quarterly reviews should include:

- Copy of Quarterly financial statement
- 1-page report on progress against strategic plan inclusive of activity to grow the club in numbers and sustainability
- Update on Swimming members

BACKGROUND
For background on previous requests for exemptions please refer to FRACA Minutes July 2018 & July 2019.

The Centre Manager received a request from GSSC Secretary Lisa Taylor via email on 22 June 2020 requesting an extension of the 100% waiver of lane hire charges for a further twelve months (to 30 June 2021) due to its slow increase of members and the impact of Covid-19. Several emails were exchanged with the Club in order to obtain all relevant information so the board are able to make an informed decision on the request.

Progress update:

- The Club currently have 22 swimmers and 12 Masters swimmers registered with the club.
- Net profit for the club between the period 1st October 2019 - 31st March 20 $5,995.80 and total cash on hand $16,828.79.
- GSSC were awarded a $5,500 grant for equipment in 2020, yet to be expensed but not included in the cash on hand figures.
- GSSC is currently operating without a club president or vice president, the club is trying to fill these positions pre October.
• **Some outcomes from the clubs strategic plan have been actioned 2017-20**
  and a new draft plan is currently being prepared by the committee.
  *Significant change in personal has been challenging for the club to fully*
  *implement the actions from the plan.*

• **Summer season was cut short by 3 weeks and there was inability to train**
  *for 4+ months.*

• **As such, there is no income coming in with the club now obliged to charge**
  *less for training fees for the remainder of the winter season. Currently 16*  
  *juniors at FAC will pay $50 each ($800 total) for term 3 training fees,*
  *associated expenses or honorariums.*

**DISCUSSION**
The current structure of the club is reliant on a volunteer committee spread  
*across FAC and Strathalbyn outdoor pool during the summer months.*

**YMCA Concerns:**
• GSSC pays lane hire at Stateswim Mount Barker as per their financial  
  statements. This is a private pool and this demonstrates the ability to pay  
  hire fees albeit a low amount.
• Key committee positons including President and Vice president remain  
  vacant since May 2020 resulting in a lack of direction for the club.
• Adhoc approach to bookings creating unnecessary administration for Centre  
  Staff
• Lack of marketing spend total spend of $684.65 (17-month period) October  
• Website outdated with incorrect committee members still showing 2018/19.
• Lack of formal communication with Centre staff particularly on strategic plan  
  progress.
• No fundraising opportunities offered by FAC have been taken up by the club  
  over 3.5 years of operations.

The club currently have booked 5 hours of total lane space for the week. As  
*such:*
• Regular cost for this would be $125pw less discount of 20% resulting in $100  
  per week cost for the Club over 41+ weeks.
• Proposed discounted fee, assuming a 50% discount, would be $62.50 per  
  week ($3,000 over 48 weeks). Based on our assessment of the current  
  *income and expense ratio this is sustainable for the club.*

Pre Covid-19, GSSC were training 3 nights a week with 2 lanes for an hour and  
*a half. Totalling 9 hours of booked lane hire. As such:*
• Regular cost for this would be $225pw less discount of 20% resulting in  
  $180pw cost to the Club for 41+ weeks.
• Proposed discounted fee, assuming a 50% discount, would be $112.50pw ($5,400 over 48 weeks)

Noting:
• All GSSC members training at the centre must pay for entry or hold a valid membership or visit pass.
• GSSC have $5,000 of grant monies to spend on Equipment and will likely apply for the Alexandrina Council COVID-19 Community Reactivation Grant 2020-2021 for $1000.
• FAC currently provides free equipment storage on site

RISK ASSESSMENT
Service Delivery – The risks associated with the recommendation are that if the proposed level of assistance cannot be provided, the Club may not financially able to operate at FAC. Consequently, swimmers looking to train and compete with a swimming club may have to access facilities other than FAC. The risk is considered to be low.

BUDGET IMPLICATION
The Authority 2020-21 Budget estimated lane hire fees from the Club based on the previously agreed 50% discount on total fees and forecast usage. Should the Authority approve a continued 100% waiver, this income will not be received; requiring an adjustment as part of the 2020-21 Budget First Quarter Review. Noting that if the 50% waiver is approved the existing 100% waiver has been in place for July –October during the decision making process.
To: FRAC Authority Board From: Chairperson
Subject: 5.2 Request for Change of Use for Capital
Meeting date: 28 August 2020
Reference(s):
Consultation: Area Manager, YMCA SA
Attachments: 

PURPOSE
For discussion.

Recommendation
That the Authority approve the purchase of 17 Aquatic Steps to be funded through the reallocation of $3,000 previously budgeted for the purchase of My Wellness Kiosk.

INFORMATION
Following Covid-19, the Area Manager would like to request a change in the capital item approved at FAC. A My Wellness Kiosk was approved as a capital purchase however given the drop in attendance the YMCA focus has shifted to driving revenue through programs. After consulting with the leadership team we feel the money is better spent on some aqua steps to allow diversification in aqua programming. This will add value to the membership without negatively impacting members. The technogym app has been taken up, significantly due to Covid-19 and currently this makes the kiosk almost redundant. Had Covid-19 not occurred the uptake on the app by our older demographic would have been less and much slower.

DISCUSSION
YMCA would like to purchase 17 aquatic steps to equal the $3k allocated capital spend.
The aquatic step is a one of a kind, patented modular design used for a variety of purposes in an aquatic environment from swim school steps for children to high energy Aqua Step Fitness classes.

Easy to stack and very simple to store the aquatic step will last many years. Two sizes of suction cups are available depending on the tile sizes of your pool.
6. MATTERS FOR DISCUSSION

<table>
<thead>
<tr>
<th>To:</th>
<th>FRAC Authority Board</th>
<th>From:</th>
<th>Chairperson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject:</td>
<td>6.1 Correspondence – City of Victor Harbor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meeting date:</td>
<td>28 August 2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reference(s):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consultation:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attachments:</td>
<td>6.1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

PURPOSE
To provide the FRACA Authority correspondence received from City of Victor Harbor in regards to consideration of agenda items being considered in confidence.

RECOMMENDATION
That the Authority receive the correspondence from City of Victor Harbor and the Chair respond with the advice of the Authority.

BACKGROUND
The City of Victor Harbor at their Council meeting 22 June 2020 requested that consideration be given to how and when matters are considered in confidence to ensure that there is a higher level of transparency and accountability provided to the community.

Refer attachment 6.1

7. VERBAL UPDATES

7.1 Solar

7.2 Update of the Asset Register and broader asset plan to account for the lifecycle of equipment

8. URGENT BUSINESS WITHOUT NOTICE
Pursuant to section 90(2) of the Local Government Act 1999, the Authority orders that all members of the public be excluded, with the exception of the Minute Taker, Director Corporate & Customer Service, City of Victor Harbor, Kellie Knight-Stacey on the basis that it will receive and consider Item 9.1 titled Confirmation of Confidential Minutes 26 June 2020.

The Authority is satisfied, pursuant to section 90(3)(b) of the Act, that the information to be received, discussed or considered in relation to this Agenda Item is:

(b) information the disclosure of which –

(i) Could reasonably be expected to confer a commercial advantage on a person with whom the Authority is conducting, or proposing to conduct business, or to prejudice the commercial position of the authority; and

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

Accordingly the Authority is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:
The matter of the agenda item relating to Confidential Authority Board Minutes 26 June 2020 to ensure that information that may prejudice the commercial position of the Authority is not divulged.

Recommendation

1. That having considered Agenda Item 9.1 Confirmation of Confidential Minutes 26 June 2020, in confidence under Section 90(2) and (3)(b) of the Local Government Act 1999, the Authority:

   (i) Pursuant to Section 91(7) of the Act orders that the report, minutes, attachments and associated documents be retained in confidence and not available to the public for a period of twelve months from the date of this confidentiality order, in accordance with section
91(9)(a) of the Local Government Act 1999 or as otherwise determined by the Chair; and

(ii) The public be re-admitted to the meeting.
Pursuant to section 90(2) of the Local Government Act 1999, the Authority orders that all members of the public be excluded, with the exception of the Minute Taker, Director Corporate & Customer Service, City of Victor Harbor, Kellie Knight-Stacey on the basis that it will receive and consider Item 9.2 titled Confidential Executive Officer Recruitment.

The Authority is satisfied, pursuant to section 90(3)(b) of the Act, that the information to be received, discussed or considered in relation to this Agenda Item is:

(b) information the disclosure of which –

(i) could reasonably be expected to confer a commercial advantage on a person with whom the Authority is conducting, or proposing to conduct business, or to prejudice the commercial position of the authority; and

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

Accordingly the Authority is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:
The matter of the agenda item relating to Confidential 28 August 2020 to ensure that information that may prejudice the commercial position of the Authority is not divulged.

Recommendation
1. That having considered Agenda Item 9.2 Confidential Executive Officer Recruitment, in confidence under Section 90(2) and (3)(b) of the Local Government Act 1999, the Authority:

   (i) Pursuant to Section 91(7) of the Act orders that the report, minutes, attachments and associated documents be retained in confidence and not available to the public for a period of twelve months from the date of this confidentiality order, in accordance with section
91(9)(a) of the Local Government Act 1999 or as otherwise determined by the Chair; and

(ii) The public be re-admitted to the meeting.
Subject: 9.3 Confidential Competitive Neutrality Review; Fee Review; and Implementation Review

Meeting date: 28 August 2020

Reference(s): Local Government Act 1999
FRAC Authority Charter v2.0

Consultation: YMCA

Attachments:

Pursuant to section 90(2) of the Local Government Act 1999, the Authority orders that all members of the public be excluded, with the exception of the Minute Taker, Director Corporate & Customer Service, City of Victor Harbor, Kellie Knight-Stacey on the basis that it will receive and consider Item 9.2 titled Confidential Executive Officer Recruitment.

The Authority is satisfied, pursuant to section 90(3)(d) of the Act, that the information to be received, discussed or considered in relation to this Agenda Item is:

(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.

Accordingly the Authority is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:

The matter of the agenda item relating to Item 9.3 Confidential Competitive Neutrality Review; Fee Review; and Implementation Review to ensure that information that may prejudice the commercial position of the Authority is not divulged.

Recommendation

1. That having considered Agenda Item 9.3 Confidential Competitive Neutrality Review; Fee Review and Implementation Review, in confidence under Section 90(2) and (3)(d) of the Local Government Act 1999, the Authority:

   (i) Pursuant to Section 91(7) of the Act orders that the report, minutes, attachments and associated documents be retained in confidence and
not available to the public for a period of twelve months from the date of this confidentiality order, in accordance with section 91(9)(a) of the Local Government Act 1999 or as otherwise determined by the Chair; and

(ii) The public be re-admitted to the meeting.
Pursuant to section 90(2) of the Local Government Act 1999, the Authority orders that all members of the public be excluded, with the exception of the Minute Taker, Director Corporate & Customer Service, City of Victor Harbor, Kellie Knight-Stacey on the basis that it will receive and consider Item 9.4 titled Confidential YMCA Contract Extension.

The Authority is satisfied, pursuant to section 90(3)(d) of the Act, that the information to be received, discussed or considered in relation to this Agenda Item is:

(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.

Accordingly the Authority is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:

The matter of the agenda item relating to Item 9.4 Confidential YMCA Contract Extension to ensure that information that may prejudice the commercial position of the Authority is not divulged.

Recommendation

1. That having considered Agenda Item 9.4 Confidential YMCA Contract Extension in confidence under Section 90(2) and (3)(d) of the Local Government Act 1999, the Authority:

   (i) Pursuant to Section 91(7) of the Act orders that the report, minutes, attachments and associated documents be retained in confidence and not available to the public for a period of twelve months from the date
of this confidentiality order, in accordance with section 91(9)(a) of the Local Government Act 1999 or as otherwise determined by the Chair; and

(ii) The public be re-admitted to the meeting.

Meeting closed
DATE & TIME: Friday 26 June 2020 at 9:30am
LOCATION: City of Victor Harbor, Council Chamber

1. ATTENDANCE

Steve Mathewson (Chairperson)
Mark Easton (Independent Member)
Trish Kirkland (Independent Member)
Councillor Margaret Gardner (Alexandrina Council)
Councillor David Kemp (City of Victor Harbor)
Karen Rokicinski (Director Corporate & Customer Service, City of Victor Harbor & minute taker)

2. APOLOGIES

Elizabeth Williams (General Manager Resources, Alexandrina Council)
Councillor Peter Charles (Deputy Elected Member Representative)
Debbie Palmer (Executive Officer)

3. CONFLICT OF INTEREST

Serves as a standing reminder to board members to declare Conflicts of Interest. No decisions/declarations recorded.

4. MINUTES OF PREVIOUS MEETINGS

4.1 Confirmation of Minutes 22 May 2020

Moved: Cr David Kemp
Seconded: Cr Margaret Gardner
FRACA00307

That the Minutes of the meeting held 22 May 2020 be received.
CARRIED

4.2 Confirmation of Minutes 5 June 2020

Moved: Mark Easton
Seconded: Cr Margaret Gardner
FRACA00308

That the Minutes of the meeting held 22 May 2020 be received.
CARRIED

5. PRESENTATIONS

Nil

6. REPORTS

6.1 Q3 Financial Review

Moved: Cr David Kemp
Seconded: Cr Margaret Gardner

FRACA00309

1. That the Authority for the period ending 31 March 2020 adopts a projected Budget Review with Operating Expenses of $2,774,210 an operating deficit of $(722,073) and estimated cash at end of reporting period of $880,469.

2. That the Authority recommends the Budget Review (as at 31 March 2020) and the budget variations contained therein to the constituent Councils for endorsement.

CARRIED

7. CONFIDENTIAL REPORTS

7.1 22 May Special Meeting Confidential Minutes

Moved: Cr Margaret Gardner
Seconded: Mark Easton

FRACA00310

That the Authority:

1) Under the provisions of Section 90(2) of the Local Government Act 1999 make an order that the public be excluded from the meeting, except the Director Corporate & Customer Service, City of Victor Harbor, Karen Rokicinski; in order to consider in confidence a report relating to Section 90(3)(d) of the Local Government Act 1999:

(d) information 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;

relating to the 20/21 budget and supporting reports for the Fleurieu Aquatic Centre as well as commercial in confidence information pertaining to the YMCA plan to reopen
the FRACA with the easing of Covid 19 restrictions and confidential minutes of the audit and risk management committee, being information that must be considered in confidence in order to ensure that the Authority does not disclose commercial information that may prejudice the commercial position of the Authority; and

2) Accordingly, on this basis, the Authority is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:

The matter of the agenda item relating to the Confirmation of the confidential minutes of 22 May 2020 and supporting attachments be pursuant to Section 90(3)(d) of the Local Government Act 1999 (“the Act”) being information that must be considered in confidence to ensure that commercial position of the Authority is not divulged.

There is strong public interest in enabling members of the public to observe the Authority's transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a meeting of the Authority is one means of satisfying this interest. The public will only be excluded from a meeting of the Authority when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that discussion will include the disclosure of information that may prejudice the commercial position of the Authority, or confer a commercial advantage on a third party. On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweigh the factors in favour of the public interest of open decision making.

CARRIED

FRACA00310 Retained in Confidence
FRACA00311 Retained in Confidence

Moved: Mark Easton
Seconded: Trish Kirkland

FRACA00312

That having considered Agenda Item 7.1 - 22 May Special Meeting Confidential Minutes in confidence under Section 90(2) and (3)(d) of the Local Government Act 1999, the Authority:

i. Pursuant to Section 91(7) of the Act orders that the report, minutes and associated documents be retained in confidence until otherwise determined by the Executive Officer; and

ii. The public be re-admitted to the meeting.

CARRIED
7.2 5 June Special Meeting Confidential Minutes

Moved: Mark Easton  
Seconded: Cr David Kemp

FRACA00313

That the Authority:

1) Under the provisions of Section 90(2) of the Local Government Act 1999 make an order that the public be excluded from the meeting, except the Director Corporate & Customer Service, City of Victor Harbor, Karen Rokicinski; in order to consider in confidence a report relating to Section 90(3)(d) of the Local Government Act 1999:

   (d) information 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;
relating to Competitive Neutrality as well as commercial in confidence information pertaining to the YMCA plan to reopen the FRACA with the easing of Covid 19 restrictions, being information that must be considered in confidence in order to ensure that the Authority does not disclose commercial information that may prejudice the commercial position of the Authority; and

2) Accordingly, on this basis, the Authority is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:

The matter of the agenda item relating to the Confirmation of the confidential minutes of 5 June 2020 and supporting attachments be pursuant to Section 90(3)(d) of the Local Government Act 1999 (“the Act”) being information that must be considered in confidence to ensure that commercial position of the Authority is not divulged.

There is strong public interest in enabling members of the public to observe the Authority’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a meeting of the Authority is one means of satisfying this interest. The public will only be excluded from a meeting of the Authority when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that discussion will include the disclosure of information that may prejudice the commercial position of the Authority, or confer a commercial advantage on a third party. On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweigh the factors in favour of the public interest of open decision making.

CARRIED

FRACA00313  Retained in Confidence
FRACA00314  Retained in Confidence

Moved:         Trish Kirkland
Seconded:      Mark Easton

FRACA00315

That having considered Agenda Item 7.2 – 5 June Special Meeting Confidential Minutes in confidence under Section 90(2) and (3)(d) of the Local Government Act 1999, the Authority:

iii. Pursuant to Section 91(7) of the Act orders that the report, minutes and associated documents be retained in confidence until otherwise determined by the Executive Officer; and

iv. The public be re-admitted to the meeting.

CARRIED

7.3 Competitive Neutrality Correspondence

Moved:         Mark Easton
Seconded:      Cr David Kemp

FRACA00317

That the Authority:

1) Under the provisions of Section 90(2) of the Local Government Act 1999 make an order that the public be excluded from the meeting, except for Director Corporate & Customer Service, City of Victor Harbor, Karen Rokicinski; in order to consider in confidence a report relating to Section 90(3)(d) of the Local Government Act 1999:

   (d) information the disclosure of which—
   (i) could reasonably be expected to confer a commercial advantage on a person with whom the Authority is conducting, or proposing to conduct, business, or to prejudice the commercial position of Authority; and
   (ii) would, on balance, be contrary to the public interest;
relating to correspondence regarding Competitive Neutrality, being information that must be considered in confidence in order to ensure that the Authority does not disclose commercial information that may prejudice the commercial position of the Authority; and

2) Accordingly, on this basis, the Authority is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:

The matter of the agenda item relating to the Competitive Neutrality Correspondence and supporting attachments be pursuant to Section 90(3)(d) of the Local Government
Act 1999 ("the Act") being information that must be considered in confidence to ensure that commercial position of the Authority is not divulged.

There is strong public interest in enabling members of the public to observe the Authority’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a meeting of the Authority is one means of satisfying this interest. The public will only be excluded from a meeting of the Authority when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that discussion will include the disclosure of information that may prejudice the commercial position of the Authority, or confer a commercial advantage on a third party. On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweigh the factors in favour of the public interest of open decision making.

CARRIED

FRACA00317 Retained in Confidence
FRACA00318 Retained in Confidence

Moved: Trish Kirkland
Seconded: Mark Easton

That having considered Agenda Item 7.3 - 22 May Special Meeting Confidential Minutes in confidence under Section 90(2) and (3)(d) of the Local Government Act 1999, the Authority:

v. Pursuant to Section 91(7) of the Act orders that the report, minutes and associated documents be retained in confidence until otherwise determined by the Executive Officer; and

vi. The public be re-admitted to the meeting.

CARRIED

8. BUSINESS WITHOUT NOTICE - CONFIDENTIAL

Moved: Trish Kirkland
Seconded: Cr David Kemp

That the Authority:
1) Under the provisions of Section 90(2) of the Local Government Act 1999 make an order that the public be excluded from the meeting, except for Director Corporate & Customer Service, City of Victor Harbor, Karen Rokicinski; in order to consider in confidence a report relating to Section 90(3)(d) of the Local Government Act 1999:

(d) information the disclosure of which—
(i) could reasonably be expected to confer a commercial advantage on a person with whom the Authority is conducting, or proposing to conduct, business, or to prejudice the commercial position of Authority; and
(ii) would, on balance, be contrary to the public interest;

relating to Business Without Notice, being information that must be considered in confidence in order to ensure that the Authority does not disclose commercial information that may prejudice the commercial position of the Authority; and

2) Accordingly, on this basis, the Authority is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Substantiation:
The matter of the agenda item relating to Business without Notice be pursuant to Section 90(3)(d) of the Local Government Act 1999 (“the Act”) being information that must be considered in confidence to ensure that commercial position of the Authority is not divulged.

There is strong public interest in enabling members of the public to observe the Authority’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a meeting of the Authority is one means of satisfying this interest. The public will only be excluded from a meeting of the Authority when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that discussion will include the disclosure of information that may prejudice the commercial position of the Authority, or confer a commercial advantage on a third party. On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweigh the factors in favour of the public interest of open decision making.

CARRIED

Moved: Trish Kirkland
Seconded: Cr Margaret Gardner

FRACA00325

Having considered this matter in confidence under Section 90(2) and 90(3)(b) of the Local Government Act 1999, makes an order pursuant to Section 91(7) and (9), that the agenda report, minutes and associated documents in relation to the Business Without Notice, be kept confidential and not available for public inspection other than information required to be released in accordance with any relevant requirements of Section 91(8) of the Local Government Act 1999; and in accordance with (2) above and Section 91(9)(c) of the
Local Government Act 1999, authorises the Executive Officer to review and revoke the order; and
That the public be readmitted to the meeting.
CARRIED

NEXT MEETING
TBC

CLOSURE
Meeting closed: 11:25am
1 July 2020

Steve Mathewson and Deb Palmer  
Fleurieu Regional Aquatic Centre  
PO Box 579  
Port Elliot SA 5212

Dear Steve and Deb

RE: COMPETITIVE NEUTRALITY AND TO THE 2020/21 BUDGET, FEES AND CHARGES

City of Victor Harbor (Council) considered a number of agenda items at their Council meeting on 22 June 2020, as referred by the Fleurieu Regional Aquatic Centre Authority. Items relating to Competitive Neutrality and to the 2020/21 Budget, fees and charges were prepared in confidence for Council consideration as only the corresponding resolutions of the Authority had been brought out of confidence, and not the agenda reports, attachments, nor other supporting documents.

After some debate regarding the need for the matter to be considered in confidence, Council resolved to consider the report regarding Competitive Neutrality in confidence. Similar debate was held regarding the need to consider the Authority 2020/21 Budget, fees and charges in confidence, and for this item it was determined that the matter should be considered in public.

An additional motion was then carried following consideration of these Authority matters, directing me to write to the Authority and request that consideration be given to how and when matters are considered in confidence to ensure that there is a higher level of transparency and accountability provided to the community that it provides services to. This request is the reason for my letter.

While Council’s clear preference is for matters to be considered publicly wherever this is possible, there will be times when matters must be considered in confidence and the Local Government Act clearly outlines the circumstances where this is appropriate. Where confidential consideration of a matter is required, further explanation as to the reasons for this requirement, documented within the Board recommendation, might go some way to appeasing concerned members of Council and the community. It may also be possible to address these concerns by preparing agenda reports and attachments in such a way that enables the information to be made public at the earliest possible time afterwards, even if consideration of the matter at a Board meeting might be required in confidence. Prompt maintenance of the public and confidential resolutions registers and clear memorandums to the administration of the two constituent Councils regarding the recommended content of agenda reports for items being referred by the Authority to Council will also further assist with this clarity.

We appreciate your consideration of this matter and I am happy to discuss this with you further if this would be helpful.

Yours sincerely

Victoria MacKirdy  
Chief Executive Officer