CITY OF MARION COMMITTEE MEETING 11 MAY 2004

CONFIDENTIAL

REPORT RELATING TO:

KRA1 – Provide Leadership

Originating Officer:

Pauline Koritsa, Manager Governance

Subject:

Alleged Breach of Elected Members' Code of Conduct

Ref No:

CC110504F01

File No:

15/05/62

RECOMMENDATION

If the Council so determines, this matter may be considered in confidence under Section 90(2) and 90(3)(a) of the Local Government Act on the Grounds included in the Report Ref No: CC110504F01.

Mark Searle
Chief Executive

1. That Pursuant to Section 90(2) and (3)(a) of the Local Government Act, 1999 the Council orders that all persons present, with the exception of the following Council officers [identify names/positions], be excluded from the meeting as the Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider a report into the findings of an investigation pertaining to an alleged breach of the Elected Members' Code of Conduct.

CORPORATE OBJECTIVES:

1.1 A cohesive and highly informed Council achieving its' democratic and community priorities.

BACKGROUND:

A report was presented to the 27 January 2004 meeting of Council in relation to three formal complaints, alleging breaches of the Elected Members' Code of Conduct, resulting from the distribution of a memo by email and hard copy to all staff by Cr Hull in response to an email, distributed by the CEO, entitled Staff Recognition. At this meeting it was resolved that:

- 2. Dr Josephine Tiddy, Managing Director and Principal Consultant, Josephine Tiddy Corporate Transformations, be engaged to undertake the investigation and mediation into the alleged breaches of the Code of Conduct for Elected Members;
- 3. A report on the findings of the investigation and mediation be provided to Council for its consideration.
- 4. Under Section 91(7) and (9) of the Local Government Act the Council orders that this document be kept confidential for a period of 12 months, and will be reviewed at the General Council Meeting in December 2004.

REPORT OBJECTIVE:

In accordance with the Council resolution the matter has now been investigated by Dr Josephine Tiddy and her findings are presented to Council, via a copy of a letter to the Mayor, for consideration (Appendix 1).

In addition, copies of letters from Dr Tiddy to Crs Bouwens, Telfer and Whennan are also included for Council's information (Appendices 3, 4 & 5). These letters advise these Elected Members, as the three complainants, of the outcome of Dr Tiddy's investigation and mediation.

As indicated in Dr Tiddy's letter to the Mayor, Dr Tiddy has undertaken individual interviews with Crs Bouwens, Telfer and Whennan as well as Cr Hull who was accompanied by Cr Veliskou as his support person, as part of the investigation. This letter also indicates that, whilst Cr Hull has admitted that he breached the Elected Members' Code of Conduct, he was prepared to reiterate his apology for his actions and make a commitment that he would refrain from such actions in the future. As a result of these interviews, Crs Bouwens, Telfer and Whennan have advised Dr Tiddy that they would accept a letter, from Cr Hull to the Mayor reiterating his apology and giving a commitment to refraining from such actions in the future, as a resolution to their complaints.

Appendix 2 is a copy of a letter from Cr Hull to Mayor Lewis reiterating his apology for his actions in relation to this matter and advising that he, "will not distribute any similar type of email electronically, or in hard copy to all staff ever again".

CONCLUSION:

Dr Josephine Tiddy has undertaken and finalised her investigation and mediation in relation to the three formal complaints of alleged breaches of the Elected Members' Code of Conduct by Cr Hull. The result of this investigation is provided to Elected Members for consideration.

RECOMMENDATION:

That:-

- 1. The report be received.
- 2. That the results of Dr Tidy's investigation and mediation in relation to three formal complaints alleging breaches of the Elected Members' Code of Conduct by Cr Hull resulting from the distribution of an email and hard copy memo to all staff in response to an email to all staff by the CEO entitled 'Staff Recognition' be considered.
- 3. That Council endorses the recommendation from Dr Tiddy that the letter from Cr Hull to Mayor Lewis apologising for his actions and giving a commitment to refrain from such actions in the future, in relation to his email and hard copy memo to all staff in response to an email to all staff from the CEO entitled, 'Staff Recognition', be accepted as resolution of this matter.
- 4. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, the minutes arising from this report and the report detailing the findings of the investigation and mediation into alleged breaches of the Elected Members' Code of Conduct by Cr Hull received from Dr Josephine Tiddy be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting on the basis that it deals with information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead). This confidentiality order will be reviewed at the General Council Meeting in December 2004.

Appendix 1: Letter from Dr Jo Tiddy to Mayor Lewis

Appendix 2: Letter from Cr Hull to Mayor Lewis

Appendix 3: Letter from Dr Jo Tiddy To Cr Bouwens

Appendix 4: Letter from Dr Jo Tiddy to Cr Telfer

Appendix 5: Letter from Dr Jo Tiddy to Cr Whennan

23 April 2004

Her Worship the Mayor Felicity-ann Lewis City of Marion PO Box 21 OAKLANDS PARK SA 5046 43 Charli & Circuit
Adelaide

PO Box 2 581 Kent Town South Aus ralia Australia 071

Tel: 61 8 :223 7885 Mob: 041 188 1926 Fax: 61 8 8223 6605

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jtiddy@jt. '.com.au

Dear Mayor Lewis

I refer to the Report to Marion Council, reference number: GC270104FO1 regarding alleged breaches of Elected Members' Code of Conduct by Councillor Bruce Hull.

The facts of this matter are that three Elected Members: Councillors Carol Bouwens, Raelene Telfer and Irene Whennan alleged that the subject matter of Councillor Hull's email, subject Staff Recognition, dated 14 November 2003, breached the Elected Members' Code of Conduct. In addition, these Elected Members alleged that Councillor Hull's distribution of the email to Elected Members and all staff of the Corporation of the City of Marion, also breached the Code of Conduct.

My investigation has been completed. I have interviewed Councillors Carol Bouwens, Raelene Telfer and Irene Whennan and Councillor Hull, accompanied by his support person, Councillor Vicky Veliskou.

Councillor Hull admitted to breaching the Code of Conduct, stating that he recognised that his behaviour, in this instance, was not appropriate, nor in accord with his role as an Elected Member. While Councillor Hull believed that there was some justification for his response, he now recognises that the manner and means of expressing his views were inappropriate and offensive to those against whom it was directed. As a consequence, Councillor Hull seeks to make amends.

Councillors Bouwens, Telfer and Whennan informed me that they would accept as the resolution of their complaints, a letter written by Councillor Hull to you, in which he reiterated his apology and made certain commitments about the way he would express his views in the future. They also sought that Councillor Hull's letter be tabled in Council, in confidence.

Josephine T dy Corporate Transforme t ons Pty Ltd ABN 18 138 891 347 ACN (38 891 347 I have had two further meetings with Councillor Hull, since my first investigation interviews and he has agreed to the resolution proposal of a letter to you.

During those meetings Councillor Hull and I also discussed in detail the future consequences that flow from writing such a letter to you. I consider that Councillor Hull is fully aware of the responsibilities and accountabilities that arise for him from his written commitments. He has asked me to convey to you, on his behalf, that it is his clear intention to adhere to his commitments in all his future dealings with Council.

Accordingly, I attach Councillor Hull's letter, dated 15 April 2004.

In his letter, Councillor Hull has apologised for his breaches of the Code of Conduct, undertaken not to repeat such actions again and will respect Elected Members and staff of the Corporation of the City of Marion in carrying out his future duties as an Elected Member.

Given that Councillors Bouwens, Telfer and Whennan are prepared to accept Councillor Hull's apology, admission and commitments as the resolution for their complaints, I believe that it would be inappropriate for Council to censure Councillor Hull on this matter.

I consider that Councillor Hull's breaches of the Elected Members' Code of Conduct have now been resolved.

Yours sincerely

Or Josephine M Tiddy

Managing Director

JTCT

cc Councillor Bruce Hull

P. 38

West Ward

Bruce Hull Councillor City of Marion

139 Diagonal Road Warradale SA 5046 Ph 08 82960574 Fax 08 82960574 Email:bruce.hull@marion sa gov.au

15 April 2004

Her Worship Mayor Felicity-ann Lewis Marion Council PO Box 21 OAKLANDS PARK SA 5046

Dear Mayor

I refer to my email, subject: Staff Recognition, dated 14 November 2003, which I distributed to Elected Members and staff on that day and in hard copy to Depot employees on 28 November 2003. I am aware that three Elected Members have lodged complaints that I have breached the Elected Members' Code of conduct.

I have apologised for my actions and reiterate my apology. I will not distribute any similar type of email electronically, or in hard copy to all staff and Elected Members ever again. However, I remain committed to achieving outcomes for the people of the City of Marion and ensuring through the Chief Executive that the Corporation of the City of Marion is accountable and focussed on gaining Council's positive objectives.

I accept that the tenor of my email was not appropriate, but I was concerned about the inability of Call Centre staff to answer telephone calls from our community within reasonable times. I was therefore flabbergasted with the Chief Executive's email, subject: *Staff Recognition*, dated 14 November 2003, where he attempted to gloss over the inadequacies in the services being provided.

While it was not my intention to 'take issue' with the staff, I accept that any denigration of staff is personally damaging to individual staff, impairs morale and is counter productive to achieving our Corporate objectives.

I reiterate my apology for my breach of the Code of Conduct and am committed to not taking such actions in the future. I further confirm that I am aware of my responsibilities to respect Elected Members and Corporation staff, as I carry out my statutory duties as an Elected Member.

Yours sincerely

Bruce Hull Councillor



23 April 2004

Councillor Carol Bouwens 11a Torquay Road STURT 5047 43 Charlic : Circuit Adelaide

PO Box 2 581
Kent Town
South Australia
Australia 2071

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Email:

jtiddy@jtc .com.au

Dear beach

I refer to the Report to Marion Council, reference number: GC270104F01 regarding alleged breaches of Elected Members' Code of Conduct by Councillor Bruce Hull and to my interview with you on 19 March 2004.

When we met I did appreciate your frankness about the range of matters that we discussed arising from your long experience of being an Elected Member of Marion Council. I also recognised your concern about the conflict that was occurring between Councillor Hull and other Councillors.

We discussed possible ways your complaint about Councillor Hull's breaches of the Code of Conduct could be resolved. It was agreed that if Councillor Hull made certain commitments in writing to Her Worship, the Mayor and his letter was tabled in confidence in Council, that from your perspective, the matter would then be resolved.

Councillor Hull agreed to this settlement proposal. Accordingly, I attach for your confidential information, a copy of his letter to the Mayor. Clearly this is a confidential matter, so you are therefore **not** at liberty to show this letter to anyone else. I provide it to you, prior to its tabling in Council, so that you are aware of its content and for your records.

Councillors Telfer and Whennan also agreed that the matter would be resolved if Councillor Hull accepted the settlement proposal.

Given that Councillor Hull has accepted the settlement proposal and made clear commitments, I do not consider that it would be appropriate for Council to censure Councillor Hull on this matter.

It is important to recognise that while there have been significant problems in the past, it is not inevitable that these will continue in the future. I hope that you will be prepared to accept that the recent actions on the part of Councillor Hull are 'moving on' from the past. The key to future effective professional relationships between Elected Members will be that each of you is able to move forward and put the past behind you.

As is appropriate, I have provided copies of this letter to Councillor Hull and Chief Executive Mark Searle, for their confidential information.

I now consider this matter resolved. Thank you for your co-operation.

Yours sincerely

Dr Josephine M Tiddy Managing Director

JTCT

cc Councillor Bruce Hull

23 April 2004

Councillor Raelene Telfer 29 Parsons Street MARION 5043

43 Charlick Circuit Adelaide

PO Box 2581 Kent Town South Aus ralia Australia . 071

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Email:

jtiddy@jt.t.com.au

Sear Raelene

I refer to the Report to Marion Council, reference number: GC270104F01 regarding alleged breaches of Elected Members' Code of Conduct by Councillor Bruce Hull and to my interview with you on 18 March 2004.

I recognise the concerns you have about the difficulties of being a newly Elected Member, the conflict that was occurring between Councillor Hull and other Councillors and the time taken by Councillor Hull in asking questions on every agenda item of Council. I particularly appreciated your thoughtful, balanced and fair analysis of your perceptions about Councillor Hull's behaviour and how it impacted on the staff of the Corporation of the City of Marion and other Elected Members of Council.

We discussed possible ways your complaint about Councillor Hull's breaches of the Code of Conduct could be resolved. It was agreed that if Councillor Hull made certain commitments in writing to Her Worship, the Mayor and his letter was tabled in confidence in Council, that from your perspective, the matter would then be resolved.

Councillor Hull agreed to this settlement proposal. Accordingly, I attach for your confidential information, a copy of his letter to the Mayor. Clearly this is a confidential matter, so you are therefore not at liberty to show this letter to anyone else. I provide it to you, prior to its tabling in Council, so that you are aware of its content and for your records.

Councillors Bouwens and Whennan also agreed that the matter would be resolved if Councillor Hull accepted the settlement proposal.

Given that Councillor Hull has accepted the settlement proposal and made clear commitments, I do not consider that it would be appropriate for Council to censure Councillor Hull on this matter.

ACN 188 891 347

I recognise that you are aware that while there have been significant problems in the past, it is not inevitable that these will continue in the future. I am confident that you will be prepared to accept that the recent actions on the part of Councillor Hull are 'moving on' from the past. Again, I anticipate that you are aware that the key to future effective professional relationships between Elected Members will be that each of you is able to move forward and put the past behind you.

As is appropriate, I have provided copies of this letter to Councillor Hull and Chief Executive Mark Searle, for their confidential information.

I now consider this matter resolved. Thank you for your co-operation.

Yours sincerely

Dr Josephine M Tiddy

Managing Director

JTCT

cc Councillor Bruce Hull

23 April 2004

Councillor Irene Whennan 2 Pethick Terrace MARION 5043

43 Charli k Circuit Adelaide

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jtiddy@jt.t.com.au

I refer to the Report to Marion Council, reference number: GC270104F01 regarding alleged breaches of Elected Members' Code of Conduct by Councillor Bruce Hull and to my interview with you on 18 March 2004.

I recognise your concern about the conflict that has been occurring between Councillor Hull, yourself and other Councillors.

We discussed possible ways your complaint about Councillor Hull's breaches of the Code of Conduct could be resolved. It was agreed that if Councillor Hull made certain commitments in writing to Her Worship, the Mayor and his letter was tabled in confidence in Council, that from your perspective, the matter would then be resolved.

Councillor Hull agreed to this settlement proposal. Accordingly, I attach for your confidential information, a copy of his letter to the Mayor. Clearly this is a confidential matter, so you are therefore not at liberty to show this letter to anyone else. I provide it to you, prior to its tabling in Council, so that you are aware of its content and for your records.

Councillors Bouwens and Telfer also agreed that the matter would be resolved if Councillor Hull accepted the settlement proposal.

Given that Councillor Hull has accepted the settlement proposal and made clear commitments, I do not consider that it would be appropriate for Council to censure Councillor Hull on this matter.

It is important to recognise that while there have been significant problems in the past, it is not inevitable that these will continue in the future. I hope that you will be prepared to accept that the recent actions on the part of Councillor Hull are 'moving on' from the past. The key to future effective professional relationships between Elected Members will be that each of you is able to move forward and put the past behind you.

As is appropriate, I have provided copies of this letter to Councillor Hull and Chief Executive Mark Searle, for their confidential information.

I now consider this matter resolved. Thank you for your co-operation.

Yours sincerely

Dr Josephine M Tiddy Managing Director

JTCT

cc Councillor Bruce Hull

REF NO: CC110504F01 File No: 15/05/62

CONFIDENTIAL ITEM

Alleged Breach of Elected Members' Code of Conduct

Ref No: CC110504F01 File No: 15/05/02

9.36pm Councillor Whennan declared a conflict of interest in this matter and left the Chamber.

9.40pm Councillor Bouwens declared a conflict of interest in this matter and left the Chamber.

Moved Councillor Cole, Seconded Councillor Tilbrook that:-

- 1. The report be received.
- 2. That the results of Dr Tiddy's investigation and mediation in relation to three formal complaints alleging breaches of the Elected Members' Code of Conduct by Cr Hull resulting from the distribution of an email and hard copy memo to all staff in response to an email to all staff by the CEO entitled 'Staff Recognition' be considered.
- 3. That Council endorses the recommendation from Dr Tiddy that the letter from Cr Hull to Mayor Lewis apologising for his actions and giving a commitment to refrain from such actions in the future, in relation to his email and hard copy memo to all staff in response to an email to all staff from the CEO entitled, 'Staff Recognition', be accepted as resolution of this matter.
- 4. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, the minutes arising from this report and the report detailing the findings of an investigation and mediation into alleged breaches of the Elected Members' Code of Conduct received from Dr Josephine Tiddy be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting on the basis that it deals with information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead). This confidentiality order will be reviewed at the General Council Meeting in December 2004.

Carried

