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PRESENT Clr I Gosper (in the Chair), Clrs G Dean, M Nash, L MacSmith, M Hayes, S Wilcox, A Durkin, G Treavors, K Walker, I Davison and J Culverson.

Also present were the Acting General Manager, Acting Director of Finance & Corporate Services, Acting Director of Engineering & Technical Services, Director of Environmental Services, Acting Economic Development Manager and Administration Officer.

ITEMS FOR DETERMINATION

The Mayor advised that he had contacted all Councillors on 12 October 2016 to advise of the great urgency to call an Extraordinary meeting this morning due to the strict deadline of lodging a notice of intention to appeal to the Court by Friday 14 October 2016 as if no action is taken by this date the State Government can issue a proclamation.

ITEM - 1 APPLICATIONS FOR LEAVE OF ABSENCE

Proceedings in Brief

It was noted that there were nil applications for leave of absence.

MOTION (Wilcox/Nash)

THAT it be noted that there were nil applications for leave of absence.

16/10/12 Carried

ITEM - 2 DECLARATIONS OF INTEREST

Proceedings in Brief

It was noted that there were nil declarations of interest.

MOTION (Wilcox/Davison)

THAT it be noted that there were nil declarations of interest.

16/10/13 Carried

ITEM - 3 DECLARATIONS FOR POLITICAL DONATIONS

Proceedings in Brief

It was noted that there were nil declarations of political donations.

MOTION (Wilcox/Davison)

THAT it be noted there were nil declarations of political donations.

16/10/14

Carried

ITEM - 4 RESCISSION MOTION - LAND & ENVIRONMENT COURT - JUDGEMENT

Proceedings in Brief

The Chair reminded the Council that Clr Hayes had the right to speak first as he had moved the motion, then each Councillor would have one opportunity to speak with a strict time limit of 5 minutes per speaker, followed by a right of reply from Clr Hayes.

He advised that a rescission motion had been received from Clrs MacSmith, Hayes and Dean which was as follows:

THAT the following motion resolved at the extraordinary Council meeting held 11 October 2016

“ADDITIONAL ITEM – 5 LAND & ENVIRONMENT COURT – JUDGEMENT MOTION (Durkin/Nash)

- 1. Council lodge a Notice of Intention to Appeal against the judgement brought down by the Land & Environment Court against Council on 7 October 2016 and seek agreement from the State Government not to take any further action prior to the Woollahra Council Supreme Court appeal determination and for seven days thereafter;*
- 2. Council seek an injunction or interlocutory orders to stay any action should the State Government not agree to an undertaking as requested in 1. above;*
- 3. Should the State Government not agree to give an undertaking as requested in 1. above, Council consider lodging a formal appeal subject to further advice from counsel and consideration by Council at the earliest opportunity.”*

Be rescinded.

Clr Hayes waved the right to address the Council as the first speaker.

Clr MacSmith stated that following on from the motion on Tuesday 11 October 2016 he tried to move an amendment, however that he felt that he could not verbalise the correct words for the amendment so withdrew it on the day. He also noted the absence of Councillor Davison from the Tuesday meeting and felt that by calling a rescission motion he was giving the whole Council the opportunity to vote on such an important issue.

He further stated that he had received advice from a solicitor from Sydney that Cabonne Council cannot win any further court case and stated that he feels that it is time to stop fighting. He noted that whilst he understands the vast culture divide between Orange and Cabonne, he also recognised the immense pressure that was currently being put on Council staff with many staff members now being placed in acting roles.

Clr MacSmith also noted the pressures that were being put on the Council and in particular, the pressure that the Mayor has been under was extreme.

He stated that he feels that it is time to move forward and merge with Orange City Council and Blayney Shire Council.

Clr Treavors stated that he agreed with Clr MacSmith, and whilst he personally does not like the decision to merge, he felt emotions need to be put aside and that Council needed to look at the ruling from the Court. He stated that unless new evidence was brought forward to warrant an appeal, Council should not continue to fight the ruling.

Clr Culverson stated that Council needed to step up and take true leadership of the Cabonne communities, which meant to make tough decisions – not to grandstand or let personal feelings come into play in decision making processes.

She stated that this decision needed to be made taking into account Cabonne communities and council staff members and that the Council had the responsibility to make good decisions, even if the decisions may be deemed unpopular.

Clr Culverson went on to say that the court cases were costing rate payers, and that council staff were working hard to cover vacant positions that had come about and that the staff needed stability and security.

She stated that the court case had been lost and that Council now needs to move forward and fight the next fight, which was to represent communities who rely on Council at the negotiation table when the three Councils of Orange, Blayney and Cabonne merged and ensure that the communities and staff had every opportunity available which would come from Council putting measures and support in place.

Clr Dean stated that he felt that Council had reached the end of their options in regards to fighting the court case.

Clr Durkin stated that he was against the motion and that Cabonne Council was a local council not a regional Council and that they needed to ensure that the rate payers were represented. He noted that Council should not let political influence take part in the decision making process.

Clr Davison stated that Council was there to represent people the people and that a poll taken by 68 percent of residents showed that 93 percent were against an amalgamation of Councils and felt it was important to continue to agree to further appeal

The Mayor stated that he was against the motion and that he had received disturbing reports that one of the Councillors had been offering deals and benefits to other Councillors. He noted his concern that politics was now playing a part in the Council where, in the past, it never had before.

He further went on to say that a great deal of time and effort had been put towards fighting a forced amalgamation and that now was not the time to give up. He stated that many council staff members had contacted him and he felt confident that the staff were supporting Council to continue to fight in court.

The Mayor also noted that this fight was for the rights of Cabonne residents and not about personal self-gain and that Council had a responsibility to represent the communities of Cabonne not the State Government.

Clr Hayes stated that he felt he had addressed all the points for why Council should not further proceed with any court case at the Tuesday 11 October Extraordinary meeting.

MOTION (Hayes/Dean)

THAT the following motion resolved at the extraordinary Council meeting held 11 October 2016

ADDITIONAL ITEM – 5 LAND & ENVIRONMENT COURT – JUDGEMENT MOTION (Durkin/Nash)

1. Council lodge a Notice of Intention to Appeal against the judgement brought down by the Land & Environment Court against Council on 7 October 2016 and seek agreement from the State Government not to take any further action prior to the Woollahra Council Supreme Court appeal determination and for seven days thereafter;
2. Council seek an injunction or interlocutory orders to stay any action should the State Government not agree to an undertaking as requested in 1. above;
3. Should the State Government not agree to give an undertaking as requested in 1. above, Council consider lodging a formal appeal subject to further advice from counsel and consideration by Council at the earliest opportunity.

Be rescinded.

Lost

The Chair called for a division which resulted in a vote against the motion as follows:

For: Clrs Dean, MacSmith, Hayes, Treavors and Culverson.

Against: Clrs Gosper, Nash, Wilcox, Durkin, Walker and Davison.

There being no further business, the meeting closed at 9:22am.

CHAIRMAN.

Chairman of the Ordinary Meeting of Cabonne Council held on the 25 October, 2016 at which meeting the listed minutes were confirmed and the signature hereon was subscribed.