



**GLAMORGAN
SPRING BAY
COUNCIL**

**2021 ANNUAL GENERAL MEETING - UNCONFIRMED
MINUTES**

TUESDAY 14 DECEMBER 2021

5:30pm

Council Chambers, Triabunna

NOTICE OF MEETING

Notice is hereby given that the 2021 Annual General meeting of the Glamorgan Spring Bay Council will be held at the Triabunna Council Offices on Tuesday, 14 December 2021, commencing at 5:30pm.



Greg Ingham
GENERAL MANAGER

IMPORTANT INFORMATION ABOUT THE ANNUAL GENERAL MEETING

- The primary purposes of the Annual General Meeting (AGM) is to present Council's Annual Report for the preceding financial year.
- Electors for Glamorgan Spring Bay Council who are in attendance at the AGM are entitled to vote in the meeting by raising their hand.
- The AGM does not have a formal public question time. The Chair may, however, accept questions without notice or motions without notice at the AGM at the Chair's discretion.
- A motion passed at the AGM is required to be considered by Council at its next ordinary meeting. This does not require Council to take the action proposed by a motion passed at the AGM, but to consider whether to take that action. Any motions moved at the AGM should therefore be prefaced with "that Council considers..."
- As determined by Glamorgan Spring Bay Council in April 2017 all Ordinary and Special Meetings of Council are to be audio/visually recorded and streamed live.
- A recording of the meeting will be available via the link on the Glamorgan Spring Bay Council website following the meeting.

1. OPENING OF MEETING AND WELCOME BY MAYOR ROBERT YOUNG

The Deputy Mayor declared the meeting open at 5:37pm.

2. PRESENT AND APOLOGIES

Present:

Deputy Mayor Jenny Woods
Clr Cheryl Arnol
Clr Annie Browning
Clr Keith Breheny
Clr Rob Churchill
Clr Grant Robinson
Clr Michael Symons

Apologies:

Mayor Robert Young

3. DECLARATIONS OF INTEREST OR CONFLICT

Nil.

4. CONFIRMATION OF MINUTES

4.1 Annual General Meeting - 23 February 2021

RECOMMENDATION

That the Minutes of the Annual General Meeting held on Tuesday 23 February 2021 at 5:30pm be confirmed as a true and correct record.

DECISION 01/21

Moved Clr Grant Robinson, seconded Clr Annie Browning that the Minutes of the Annual General Meeting held on Tuesday 23 February 2021 at 5:30pm be confirmed as a true and correct record.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0

For: Deputy Mayor Jenny Woods, Clr Cheryl Arnol, Clr Keith Breheny,
Clr Annie Browning, Clr Rob Churchill, Clr Grant Robinson,
Clr Michael Symons

Against: Nil

5. DISCUSSION OF 2020/2021 ANNUAL REPORT

5.1 Mayor's Report

RECOMMENDATION

That the Mayors Report be accepted.

DECISION 02/21

Moved Clr Michael Symons, seconded Clr Cheryl Arnol that the Mayors Report be accepted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0

For: Deputy Mayor Jenny Woods, Clr Cheryl Arnol, Clr Keith Breheny,
Clr Annie Browning, Clr Rob Churchill, Clr Grant Robinson,
Clr Michael Symons

Against: Nil

5.2 General Manager's Report

RECOMMENDATION

That the General Manager's Report be accepted.

DECISION 03/21

Moved Clr Annie Browning, seconded Clr Michael Symons that the General Manager's Report be accepted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0

For: Deputy Mayor Jenny Woods, Clr Cheryl Arnol, Clr Keith Breheny,
Clr Annie Browning, Clr Rob Churchill, Clr Grant Robinson,
Clr Michael Symons

Against: Nil

5.3 Annual Report noting - 2020/21

RECOMMENDATION

That the contents of Annual Report for 2020/21 be endorsed.

DECISION 04/21

Moved Clr Michael Symons, seconded Clr Grant Robinson that the contents of Annual Report for 2020/21 be endorsed.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0

For: Deputy Mayor Jenny Woods, Clr Cheryl Arnol, Clr Keith Breheny,
Clr Annie Browning, Clr Rob Churchill, Clr Grant Robinson,
Clr Michael Symons

Against: Nil

6. DISCUSSION OF SUBMISSIONS RECEIVED RELATING TO THE ANNUAL REPORT

Mr Greg Luck

I note the above Draft Report is due to be presented at the Council AGM in December 2021

A positive Report is presented but the "Elephant in the Room" is glossed over - not surprisingly. Other than a couple of remarks about "the difficult but responsible decisions made by Council" not a single mention of the pathetic display of governance (or should I say lack of governance). In fact the Report goes on to state : "we function as a best practice governance organisation. We are fit for the future! " Hopefully GSBC has learnt from its mistakes and this statement will come true.

In the middle of a pandemic, you the Glamorgan Spring Bay Councillors accepted the advice, regarding the supposed "financial precipice", from the financial consultant and General Manager and then with no community involvement , no community consultation and with a high degree of stealth voted to accept the General Managers solution of changing the rating methodology from AAR to AAV.

You, the Councillors, were told that the continuing use of AAR was not possible as GSBC did not have a valid annual Certificate from the Director of Local Government to authorize AAR and there was insufficient time to get that Certificate as well as complying with the extensive list of directives under The Local Government Act 1993 for using AAR.

Informal advice from a legal entity was used to validate the information despite there being no verbal transcript of that advice provided and certified by the General Manager. A copy of the written advice from that legal entity, dated 31st May 2021, was finally produced but not shown to you ,the Councillors until it was printed in the Council meeting Minutes some 4 months after the voting took place and only then is response to a "questions on notice" for the Council meeting.

That written advice was not definitive and the legal entity advised he needed copies of the original 2012 Certificate of AAR and details of the historical use of AAR by GSBC. That information was not provided and hence incomplete advice was the result.

Personal information from The Director of Local Government confirmed : The AAR Certificate for GSBC was a "one off" authorization Certificate to use AAR in GSBC , where the extensive requirements of The Local Government ACT 1993 had been previously met - 2012 . It was not an annually renewed application/Certificate and GSBC was fully entitled and authorized to continue using AAR until they opted to change. This was also confirmed with another Council using AAR at this point in time.

Information from high level, experienced, Local Government financial experts confirmed GSBC was able to continue using AAR for that financial year and that any Financial Deficits could have been easily fixed by adjusting the rates under AAR. He stated "The AAV debate vs the AAR does not have any relevance at all as to the total amount of revenue a Council receives. The difference is simply about the individual rate distribution. There is no barrier to how much may be raised by AAR or any penalty from any other sphere of Government. Any "Financial Precipice" can be fixed just as easily by AAR."

The General Manager inferred that "AAV was the Governments preferred rating system". Personally questioning the Minister for Local Government, The Hon. Roger Jaensch, confirmed that this was false as the Government has no policy or position in that regard - Local Government is a separate sphere of Government.

Doubts were raised that GSBC would have had to carry out some minor "calculations" had it remained on AAR according to the General Manager. Firstly GSBC had 12 months since the previous setting of the rates to investigate and arrange for those calculations. More importantly under the Local Government ACT 1993 86A :

General principles in relation to making or varying rates

(1) A council, in adopting policies and making decisions concerning the making or varying of rates, must take into account the principles that –

(a) rates constitute taxation for the purposes of local government, rather than a fee for a service; and

(b) the value of rateable land is an indicator of the capacity of the ratepayer in respect of that land to pay rates.

(2) Despite subsection (1), the exercise of a council's powers to make or vary rates cannot be challenged on the grounds that the principles referred to in that subsection have not been taken into account by the council.

Basically a Council can set its own rates as it sees fit, so adding a percentage increase across the AAR rates base was legal to continue with and no calculations were required unless additional AAR Localities were being considered.

Put simply there was no need to change from AAR to AAV other than to meet the needs of the General Manager and/or the financial consultant. Brighton Council, George Town Council and GSBC were fully entitled to continue using AAR had they so desired. George Town Council carried out an independent financial review of AAR versus AAV and decided firmly in favour of remaining with AAR – that was good Governance (making an informed decision). Brighton has overwhelming ratepayer support for using AAR as did GSBC yet you were coerced into changing to AAV with no ratepayer communication, consultation nor mandate. Yet this report talks of our “good governance”. It should not be dismissed – how much time, effort and communications went into GSBC opting for AAR as their rating system in 2012 – a fair democratic result overturned now.

The “financial precipice” : The General Manager produced a copy of a State Grants Commission spreadsheet portraying the various Financial Assistance Grants paid to Councils across Tasmania and went onto to point out the miniscule Grants paid to GSBC (some 29% lower than the next lowest recipient – according to our Mayor ...) . “This left a huge hole in our budget and finances and we were being “penalized” by the Government for using AAR. All the other small Councils were using AAV and getting higher Grants so we needed to switch to AAV” said the General Manager ...

Having corresponded with both The State Grants Commissioner and State Treasury It is abundantly clear that there is no correlation between the allocation of Grants Funding and the system of rates employed by a Council. The reason our Base Grant has been dropping by a consistent 10% per annum is due to the Federal Governments assessment of property values within GSBC rising at a high rate and their assessment of our expenditure dropping. The Base Grant is a “Needs Grant” and the Governments position is that, based on their calculations, our needs are less each year and that calculation/allocation has nothing to do with Councils rating method nor Councils accounting methods. Simply put the Government allocates funding on an Australia wide basis using a complex set of formulae upon which we have no control. There was no “financial precipice” in the Grants allocation. The 10% is a “safety cap” to introduce change steadily – something GSBC failed to comprehend when they set this years ratepayer “safety cap” at a ludicrous 99% (unheard of anywhere in Australia) .

You, the Councillors, failed to carry out your own due diligence, relied upon advice provided without insisting on appropriate certification, did not carry out or arrange for an actual financial impact assessment across a broad base of ratepayers nor considered if “AAV – the definition as an indicator of a persons ability to pay a higher tax” was fair and equitable given the Local Government Act 1993 was written in 1993 Instead you relied on – “well 27 Councils out of 29 now use AAV so it must be a fairer option” . What if three Councils were right and we were one of them ?

I suggest you the Councillors open this link https://www.parliament.tas.gov.au/bills/bills2011/pdf/notes/76_of_2011-SRS.pdf and read what Premier Bryan Green stated when he introduced the AAR enabling legislation in

2012. He predicted exactly what has happened here in GSBC and you the Councillors have allowed just that to happen.

You, the Councillors, used your own perception of wealth/ability to pay based on your own circumstances and failed to consider who were the actual wealthy ratepayers. The result is that pensioners are now subsidising wealthy shack owners, Airbnb accommodation owners, land developers and interstate property investors. Fair and equitable ??? No poor governance.

We are now in the position where GSBC must remain with AAV until all the requirements of The Local Government Act 1993 (for AAR) are again met. A costly and extensive process is required to rescind your decision but at least the community will have their say this time. Council elections are due in 2022 where Councillors will be judged on their actions. There are three Petitions tabled in Parliament awaiting a response together with several high level investigations underway and a continuing requirement for ongoing reporting to the Director of Local Government so I would consider it unwise for GSBC to "pat itself on the back" just yet and forward planning for the budget should take this situation into account.

It should be noted at this point that our Mayor attempted to downplay the validity of the 1000 + signatures on the Petitions by stating - in The Mercury - "some people thought they were signing a Covid 19 checkin". How dare he denigrate the hard working Clerk of the Parliament who spent many hours authenticating those very signatures. Excellent PR communications from a Mayor who couldn't even answer the simple question "how much did you rates rise Mr. Mayor" on the ABC.

Given the requirements for moving back to AAR it is now time for Councillors to consider amending the AAV rating system for the upcoming financial year. And yes this can be done and yes it is legal as per advice received from the Director of Local Government :

Councillors please consider this as a solution moving forward - If we must stay with AAV could not a Rates Rebate be applied to all properties in GSBC deemed "Principle Residences" under the State Land Tax exemption ? A list of those residences should be easily obtainable from the State Revenue Office then overlaid with your Rate Base data system.

If a Principle Residence Rebate was applied the ratepayer would pay the \$300 in general rate + various levies but get a 50% reduction (for example) on the Cents per AAV Dollar component ?

Simple enough and a fair and equitable solution. Those with Principal Residence status get their rates pegged back to a reasonable and fair amount whilst those who have investment properties, shacks or land sitting idle pay a higher amount. They are after all the true wealthy as they own multiple properties.

Furthermore I request the Councillors consider reinstating the WARD system in GSBC, to ensure equal representation and fairness across the municipality. The "WARD system" should look like this in GSBC where each of the four major towns (Coles Bay, Bicheno, Swansea and Orford/Triabunna) have a maximum cap of 2 councillors per WARD therefore putting an end to council stacking and the "us and them" mentality that has prevailed for years ? If a WARD was only able to field one candidate then the neighbouring ward could have three (but only the nearest neighbouring ward)

Both the above suggestions have been put to The General Manager previously and both have been dismissed by him as irrelevant. I suggest it is you the Councillors that make that decision and not your employee. This might be a good point to remind you that Councillors are elected to "represent" ratepayers - not to rule over them. The Mayor is elected to ensure those ratepayer wishes conveyed by the Councillors are considered and enabled if valid. The General Manager is an employee of the Council only. His role is to execute the decisions of the elected Council by providing either the funding or resources required. He is not in charge of or in control of the Council. Ratepayers matter more than his own personal KPIs and ratepayers are your responsibility Councillors.

It is my opinion that Councillors were provided with inaccurate advice and an impossible timeframe to carry out their due diligence checks. The decision to change our rating methodology was based on that advice and thus Councillors were misinformed and their decision is invalid as result.

THE Question is - "what are you as Councillors going to do about the above - if you agree " ?

Yes the decision you made was "difficult" but was it necessary and was it really needed or could the AAR rate been simply adjusted and any revenue deficiency rectified without the community anger and divide ? Will you continue to allow our Mayor to empower the General Manager, will you act democratically to resolve the imbalance or resign ?

DECISION 05/21

Moved Clr Cheryl Arnol, seconded Clr Keith Breheny that the submission received relating to the Annual Report at agenda item 6 be received and noted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0

For: Deputy Mayor Jenny Woods, Clr Cheryl Arnol, Clr Keith Breheny,
Clr Annie Browning, Clr Rob Churchill, Clr Grant Robinson,
Clr Michael Symons

Against: Nil

DECISION 06/21

Moved Clr Keith Breheny, seconded Clr Cheryl Arnol that Council moves to discuss the submission.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0

For: Deputy Mayor Jenny Woods, Clr Cheryl Arnol, Clr Keith Breheny,
Clr Annie Browning, Clr Rob Churchill, Clr Grant Robinson,
Clr Michael Symons

Against: Nil

7. QUESTIONS ON NOTICE AND MOTIONS

No written Questions on Notice or Notices of Motions were submitted.

7.1 Questions without notice

Mr John Heck

This will relate to a very recent matter. Statements were made during the discussion of Howells Hill being sold off where the land sat there unused. The land has only sat there unused to my knowledge because of the failure of the successive number of administrations failing to deliver policy. It actually had gone through Council for the formation of Spencer Street with the inclusion of the lookout, and as I said, that's the only reason why that land has sat there. Everything else had been put in place and everything else was supported. It's unfortunate that when you see so much effort put in by community groups that it is very depressing and understandable why so few new members are coming up to put their hands up to support various groups within this community when as a result all this effort can be put through and then it's sold off for a peppercorn.

What I would like to ask of the six people that voted for it, had you read the submissions that were put in and the objections to the original concept which included information from Kath Fergusson, because in there it explains it quiet plainly.

I would like to ask those Councillors who did vote for it, had you read that information, were you aware of that information before you actually voted on this matter?

Response from Deputy Mayor Jenny Woods

Thank you, Mr Heck, Council will consider that at our next meeting.

8. CLOSE OF MEETING

The Deputy Mayor declared the meeting closed at 5.49pm.