



**MINUTES OF THE SPECIAL GENERAL MEETING OF MEMBERS OF THE
SOUTH AUSTRALIAN JOCKEY CLUB INC HELD ON MONDAY 29 JULY 2019 AT
MORPHETTVILLE JUNCTION, 470 ANZAC HIGHWAY, CAMDEN PARK**

DIRECTORS PRESENT:

Ms Bodelle Francis (Chair), Mr Bob Holton (Vice-Chairman), Mr Tony Newman (Deputy Vice-Chairman), Mr John Caruso, Mr Adam Glenn, Mr Paul Kristoris, Mr Chris Sargent, Ms Christine Simpson

DIRECTORS APOLOGIES:

Mr Kevin Harrison

IN ATTENDANCE:

Mr Grant Mayer (CEO)
Mr Andrew Dyda (Partner – Finlaysons Lawyers)
Mr Andrew Tickle (Partner, Audit and Assurance – BDO Australia)

1. OPEN AND WELCOME

The Chair Ms Bodelle Francis opened the meeting at 7.00pm and welcomed 97 Members of the SAJC, guests Andrew Dyda (Finlayson's) and Andrew Tickle (BDO) to the meeting and thanked them for their attendance.

2. APOLOGIES

Apologies were noted from Michael Birchall, Allan Burchard, Chris and Lorin Jenner, Dan Van Holst Pellekaan MP, Julie Snell, Brian and Leigh Hoey, Chris Tummell, Kerry and Wendy Nelligan, Gordon Richards, Jean-Claude Nemorin, John Harris, Lachlan Harris, Dennis Markham, Kevin Harrison and Graham Burns.

3. REASON FOR MEETING

The Chair advised the meeting had been convened following receipt of a requisition from Life Member Mr Bill Spear OAM with the required number of signatures of Members in accordance with the Club's Constitution. She explained the only business that may be transacted at a Special General Meeting (SGM) is the business set out in the notice convening the meeting (Rule 26.1).

The Chair then advised that one of the special resolutions put forward relates to an entrenched clause and as the required 15% of the Membership is not present at the meeting, this item cannot be voted on at this meeting.¹

Mr Andrew Dyda from Finlayson's was invited to speak on this and explained to Members that it is believed there is a drafting error in the Constitution under Clause 26A.1 that refers to Rule 22A.5 being an entrenched provision. Mr Dyda advised that Rule 22A.5 does not and has never existed in the Constitution and it appears that it was intended that this be a reference to Rule 22A.3. There is also a specific cross reference in Clause 22A.3 to Rule 26A entrenched provisions.

Mr Spear agreed that the Constitution quoted an incorrect number in 26A.5 and stated that this mistake has been in the Constitution for the past eight years. Mr Spear disagreed that this is an entrenched provision referencing the Associations Incorporated Act and stated that it must be discussed and voted upon this evening.

¹ Relates to Clause 22A3.1 deleting the word "or improvement of facilities at Morphetville Racecourse" and inserting the following; "or including any disbursements from the Fund, including any payment whatsoever associated with any activity within the Master Plan, which are not actual payments for physical capital assets as described within normal accounting definitions."

Mr David Peacock suggested the matter be discussed that evening, but the vote deferred to the Annual General Meeting (AGM). Mr John Keen was willing to move an amendment to the Constitution to Clause 26A.1 to delete the reference to Rule 22A.5 and in its place correct it to state Rule 22A.3 however this was not permissible under the constraints of the SGM.

4. ITEM 1 – FERRIER HODGSON REPORT

Mr Bill Spear moved “that the Ferrier Hodgson Report be provided to the Club, prior to the arranged meeting being cancelled, be the subject of a detailed discussion.”

Seconded Joe Cannizzarro

The Chair advised that the Board position remains unchanged and the full report will not be released. Board Members are happy to answer questions on the report but the Club is not authorised to release the full report, only the information relating to the SAJC. Copies of the summary document that was provided to Members in January are available for Members this evening. Board Member Paul Kristoris assured Members that the summary document contains all key observations, recommendations and the status of each of these recommendations relating to the SAJC.

Ms Frances Nelson, Chair of Thoroughbred Racing SA (TRSA) confirmed that both TRSA and SAJC were reviewed by Ferrier Hodgson in 2017 and some aspects of the report relate specifically to TRSA and advised that this information cannot be released to Members.

A vote was undertaken. Motion was lost (61 votes against).

5. ITEM 2 – FINANCIAL RESULTS OF THE CLUB TO 31 JANUARY 2019

“That the financial results of the Club for the half year ended 31st January 2019, unaudited, be presented to the Members allowing for questions and discussion from the floor.”

Mr Kristoris as Chair of Finance, Investment and Audit Committee presented a five-year comparison of the Club results to the end of January. Mr Kristoris advised that the Investment Fund experienced negative returns as at 31 January 2019 due to market trends however as at 30 June 2019, the Investment Fund return had improved with returns of \$1.03M.

As at 31 January, Mr Kristoris advised the Club’s actual operational loss was \$68,000 which was ahead of budget and previous years. Mr Kristoris commended the CEO Grant Mayer on the new initiatives and cost savings he had implemented since commencing at the Club.

Mr Kristoris explained to Members that the major differences year on year relate to a significant downturn in racing related revenue with a reduction in the horse population of almost a third which has had a serious impact on finances along with a downturn in gaming revenue and reduction of industry grants.

Mr Kristoris advised that an operational loss in the region of \$600k is forecast for this financial year and a similar loss amount forecast in the preliminary budget for 2019/20.

Questions and discussion took place on the on allocations of catering and gate income and the position of depreciation on the balance sheet. Mr Andrew Tickle, representative from auditors BDO clarified the method of reporting stating that this is commonplace in many businesses.

Comments were made from a Member on the importance of reflecting the objects of the Club in the financial reports to ensure the tax-exempt status is maintained.

6. ITEM 3 – APPROVAL OF THE MINUTES OF THE 2018 AGM

“Approval of the Minutes of the Annual General Meeting of November 2018.”

The Chair advised that in line with the SAJC Constitution, the Board agree that minutes can only be approved at an AGM under Clause 23.3 and therefore this will be deferred to the AGM in November.

Mr Spear opposed this decision stating the Associations Incorporation Act overrules the SAJC Constitution however My Dyda provided the legal opinion that that the SAJC Constitution clearly references approval of minutes at the AGM.

7. ITEM 4 – SAJC BOARD DIRECTOR NOMINATING FOR TRSA BOARD

The Chair introduced Board Members John Caruso and Chris Sargent to speak on this matter.

Chris Sargent advised the SAJC Board does not support the proposed new clause due to legal issues stating the ability to impose this restraint on an individual may give rise to restraint of trade issues. Interstate comparisons were made with New South Wales and Victoria however in both states it is the industry body that has such a clause in their Constitution as opposed to the racing club and the length of time between board appointments is 18 months to two years; not the proposed four years. It is more a matter for the TRSA Constitution rather than the SAJC Constitution. Shareholders have recently been in consultation with the South Australian government regarding industry governance requirements to ensure the Minister’s expectations are met.

Bill Spear moved *“The board shall not nominate or support any South Australian Jockey Club (SAJC) Director, past or present, to a position as a Director on the Board of Thoroughbred Racing SA Limited, until a period of four years since the designated director’s last SAJC Board meeting has occurred.”*

Seconded Joe Cannizzarro

The Chair invited Mr Spear to speak to his motion and he outlined his concerns of transparency and conflict of interest. Mr Rob Rorrison spoke against the motion stating the importance of SAJC maintaining as much of an influence with TRSA as possible and working together for the good of the industry.

Mr Peacock reminded Members the importance of doing what is best for the Club. He suggested a change to the proposed four year period to two years and stated his willingness to move this motion.

Mr Dyda from Finlayson’s reminded Members that the only business that can be transacted is that listed on the notice convening the meeting so this proposed new motion cannot proceed.

A vote was undertaken. Motion was lost (6 votes in favour).

8. ITEM 5 – DIRECTORS ABILITY TO SEEK OUTSIDE ADVICE

Bill Spear moved *“Directors can seek outside professional advice, without authorisation of the Board, provided no financial liability is incurred by the Club as a result of the giving of such advice.”*

Seconded David Spear

Mr David Spear introduced himself as a former director of the Australian Institute of Company Directors (AICD) and a current governance consultant in South Australia acting on several boards.

Mr D Spear commented on the current SAJC Board procedure outlined in the document circulated to Members stating that in the main, the procedure mirrors the AICD principals but questioned some aspects of the process that are not in line with AICD best practice.

Deputy Vice Chairman Tony Newman spoke on behalf of the Board stating that the board opposes the proposed clause and proposes a new clause be drafted to reflect the AICD governance principles to be put forward for Member approval at the AGM.

Mr Sargent advised that under Clause 27.16 of the Constitution a special resolution requires at least 75% of the votes cast of those Members present to vote in favour to be passed.

A vote was undertaken. Motion NOT CARRIED (38 votes in favour).

9. ITEM 6 – MASTER PLAN AND APPLICATION OF CLAUSE 22A3

Clause 22A3.1 deleting the word “or improvement of facilities at Morphettville Racecourse” and inserting the following; “or including any disbursements from the Fund, including any payment whatsoever associated with any activity within the Master Plan, which are not actual payments for physical capital assets as described within normal accounting definitions.”

The Chair advised Members that the SAJC Board opposes this Clause and invited Board Member Paul Kristoris to summarise work to date on the Master Plan. Mr Kristoris advised that the aim of the Master Plan is to develop land that is currently not utilised at all or is underutilised.

Expenditure to date on the project has been on engaging consultants who are looking at possible options and working towards re-zoning the land.

Mr Kristoris stressed that this is a long-term project that if it proceeds will be in the form of a staged development. It has the potential to provide the Club with a great opportunity to develop its assets and provide a long-term revenue source for the Club for many years to come. Mr Kristoris stated that if Members pass an amendment such as the one put forward by Mr Spear, the master plan and the future of the Club is at risk.

Mr Bob Holton, Chair of Master Plan Working Party confirmed that any costs incurred so far on the project have been capitalised and will be recovered back to the Investment Fund as project costs.

Members Ron Pratt, Bill Spear and David Peacock in turn provided their view on the history, introduction and purpose of Clause 22A which was to protect the assets of Cheltenham and ensure the funds were not used outside of Morphettville Racecourse.

Mr Peacock commended the Board suggestion to hold a Members Information Session focussed on the Master Plan at which time all the relevant information can be presented to Members to allow Members to make an informed decision on this project.

The Chair advised that Members have been kept informed of progress to date and advised a Members Information Session will be scheduled in the coming weeks and if Mr Spear wishes to have this resolution addressed at the AGM in November he will need to submit this as an item of business.

10. MEETING CLOSURE

There being no further business to transact, Ms Bodelle Francis thanked Members for their attendance and closed the meeting at 8.58pm

Confirmed as a true and correct record

Chair

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