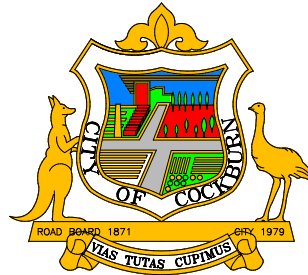


# **CITY OF COCKBURN**



## **SPECIAL COUNCIL**

## **AGENDA PAPER**

**FOR  
THURSDAY 19 APRIL 2001**



## CITY OF COCKBURN

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE SPECIAL COUNCIL MEETING TO BE HELD ON THURSDAY, 19 APRIL 2001 AT 6:30 P.M.

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**1. DECLARATION OF MEETING**

**2. APPOINTMENT OF PRESIDING MEMBER (If required)**

**3. DISCLAIMER (To be read aloud by Presiding Member)**

Members of the public who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS (by Presiding Member)**

**5. APOLOGIES AND LEAVE OF ABSENCE**

Mr R. Brown - Annual Leave

**6. PUBLIC QUESTION TIME**

**7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS PAPER PRESENT BEFORE THE MEETING**

**8. PURPOSE OF MEETING**

The purpose of the meeting is to discuss the claims by Mr J. Grljusich and Mr M. Pecotic for reimbursement of legal and other expenses incurred as a result of the Martin and Vicary and Douglas Inquiries.

Pursuant to Section 5.23(20(d)) of the Act, part of the meeting will be conducted behind closed doors.

**9. COUNCIL MATTERS**

**9.1 (scm1\_4\_2001) - CLAIM FOR REIMBURSEMENT OF LEGAL AND OTHER EXPENSES - J GRLJUSICH AND M PECOTIC (1335) (ATC) (ATTACH)**

**RECOMMENDATION**

That Council reject the claim by Mr J Grljusich and Mr M Pecotic for reimbursement of legal and other expenses incurred as a result of the Martin and Vicary and Douglas Inquiries, because of the adverse findings by the Douglas Inquiry against them.

**COUNCIL DECISION**

That Council:

**Background**

The above matter was presented to Council at its Meeting held on 20 March 2001 which resolved as follows:

- (1) *the matter be deferred to a Special Meeting of Council to be held at a date and time to be fixed by the Mayor, pursuant to Section 5.4(a)(l) of the Local Government Act 1995, following confirmation of the availability of Council's legal representative; and*
- (2) *the subject item be considered behind closed doors pursuant to Section 5.23(20(d)) of the Act.*

**CARRIED 8/2**

Mr John Woodhouse from Watts and Woodhouse, Solicitors and Legal Consultants will be attending the meeting to answer any queries which Councillors may have before a decision is made.

Mr J Grljusich and Mr M Pecotic were members of Council at the time it was suspended and subsequently dismissed. They incurred legal costs during the course of the Martin and Vicary Inquiry and the Douglas Inquiry and are now seeking reimbursement of those costs.

### **Submission**

Attached to the Agenda are copies of correspondence received from

- (1) Mr Grljusich claiming reimbursement of \$50,212.53 in respect of costs incurred as a result of the Martin and Vicary Inquiry and the Douglas Inquiry.
- (2) Mr Pecotic claiming reimbursement of legal costs and payment for time lost in respect of the Martin and Vicary Inquiry and the Douglas Inquiry, totalling \$45,565.98.

### **Report**

At its Meeting on 17 October 2000, Council considered a confidential report by the Director Finance and Corporate Services concerning the possible recovery of legal expenses paid to ex-Councillors and staff during the Douglas Inquiry. A copy of Minute No.791 of that meeting concerning the report is attached to the Agenda. A copy of the confidential report is forwarded under separate cover.

Council's decision at that meeting was to:

- (1) receive the confidential report of the Director, Finance and Corporate Services;
- (2) rescind Policy A1.18;
- (3) advise former Councillors J Grljusich, M Pecotic, J Ostojich and B Wheatley and former employee J Scharf that the City considers that, by virtue of Clauses 18 and 19 of Policy A1.18, the authorisation of financial assistance in respect of the Douglas Inquiry be revoked.

The former Councillors and staff were informed accordingly. Despite being advised of Council's decision that no financial assistance would be given to them, Mr Grljusich and Mr Pecotic have now written to Council requesting reimbursement of their costs as outlined above. As Policy A1.18 was rescinded, Council must now consider these requests on their merit.

Further legal advice was sought from John Woodhouse of Watts Woodhouse concerning these claims. A copy of the legal advice is forwarded under separate cover.

The legal advice concludes that the City has no liability in respect of these claims having sent letters revoking all authorisations after its decision at the meeting on 17 October 2000.

However, even though it has no legal liability it is open to Council to accede to the requests from the former Councillors. In other words, the Council could choose to do so but is not obliged to do so.

At its meeting on 21 November 2000, Council decided to reimburse legal expenses to former Councillor Mr J Gianoli (\$4,056.67) even though the process of Policy A1.18 was not followed. This decision was based on the fact that Mr Gianoli was exonerated by the Douglas Inquiry.

Taking into account:

- (1) the terms of Policy A1.18 and the Council's decisions on 28 September 1999 regarding Mr Grljusich and Mr Pecotic's claims for additional funding;
- (2) the adverse findings by the Douglas Inquiry against Mr Grljusich and Mr Pecotic;
- (3) Council's decision on 17 October 2000;
- (4) legal advice that Council has no liability to make reimbursement of the costs claimed, it is recommended that no payment be made to Mr Grljusich and Mr Pecotic.

### **Strategic Plan/Policy Implications**

N/A

### **Budget/Financial Implications**

The Investigation Expenses Account in Council's Budget has a balance of \$51,373.00.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



**10. RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)**

Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

- (a) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (b) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (c) managed efficiently and effectively.

**11. CLOSURE OF MEETING**