

CITY OF COCKBURN

SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON THURSDAY, 19 APRIL 2001 AT 6:30 P.M.

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CITY OF COCKBURN

MINUTES OF SPECIAL COUNCIL MEETING HELD ON THURSDAY, 19 APRIL 2001 AT 6:30 P.M.

PRESENT:

COUNCIL MEMBERS

Mr S. Lee	-	Mayor
Mr R. Graham	-	Deputy Mayor
Mrs V. Oliver	-	Councillor
Mr M. Reeve-Fowkes	-	Councillor
Mrs N. Waters	-	Councillor
Mr I. Whitfield	-	Councillor
Mrs S. Rennie	-	Councillor
Mr L. Humphreys	-	Councillor
Mr K. Allen	-	Councillor

IN ATTENDANCE

Mr D. Green	-	Acting Chief Executive Officer
Mr A. Crothers	-	Director, Finance & Corporate Services
Mrs S. Ellis	-	Secretary to Chief Executive Officer
Mr J. Woodhouse	-	Partner, Watts & Woodhouse Solicitors

1090. (AG Item 1) DECLARATION OF MEETING

The Presiding Member declared the meeting open at 6:30pm.

1091. (AG Item 2) APPOINTMENT OF PRESIDING MEMBER (If required)

Nil



1092. (AG Item 3) DISCLAIMER (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.

1093. (AG Item 5.1) (scm1_4_2001) - APOLOGIES AND LEAVE OF ABSENCE

Clr A. Edwards - Apology

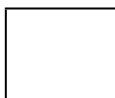
1094. (AG Item 6.1) (scm1_4_2001) - PUBLIC QUESTION TIME

Mr J. Grljusich, Coogee wished to address Council regarding his application and to appraise new Councillors of the situation in case they were not fully aware of the history of the matter. He raised concern that his application and that of Mr Pecotic was put together as one agenda item and requested that Council consider his application separately as he wished to be treated the same as others in relation to claims for legal assistance.

He pointed out that some ex-Councillors, staff and ex-staff who also had adverse findings against them, still received financial assistance. He has not received any funds in relation to the Douglas Inquiry and that all payments have been made from his own finances and has exceeded the \$51,000 mentioned in the agenda report. Mr Grljusich stated that he had received approval by the Commissioners for an increase in the permitted amount and followed the correct process in obtaining that assistance.

With regard to the Martin/Vicary Inquiry, the request to provide information was addressed to him as the Mayor and not as a private individual. He was not permitted to discuss the matter with anyone other than his legal representative and therefore, he made application to the Local Government Department for financial assistance and was told that it was a matter for Council to consider. However, time constraints meant that he needed to seek legal advice before Council would consider a request for assistance.

Mr Grljusich referred to the Council's (Commissioners) decision of October 2000 to revoke the Council's policy relating to legal assistance. At that time, the Commissioners did not make any decision to recoup funds from those who did have adverse findings against them and had



already received funds. He believed the reason for not taking such action was because there was no policy for the officers to act upon. He also believed that this was due to legal advice that the policy did not contain the words "adverse findings".

Mr Grljusich reiterated that he signed the policy as required, he sought greater assistance in the correct manner which was granted and he went through the correct process in an orderly fashion and wished to be treated the same as others. He referred to correspondence between ex-Clr Wheatley and Council disputing the revocation of the policy. Mr Grljusich felt that it had not been the intention of the Commissioners to seek funds back from those who already received funds, even with adverse findings, because the words "adverse findings" were not contained in the policy.

Mr Grljusich closed by stating that there were no illegal findings made, he believed there were many discrepancies in the Douglas Inquiry which were questionable, that it was very much politically motivated and that natural justice was not afforded to the Council.

Mr Bert Renner, Spearwood suggested that Council consider having some insurance for Council in case they do something wrong or make a mistake in the course of their duty.

1095. (AG Item 8.1) (scm1_4_2001) - 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.

1096. (AG Item) (scm1_4_2001) - MEETING BEHIND CLOSED DOORS

MOVED Deputy Mayor Graham SECONDED Clr Rennie that pursuant to Section 5.23(2(d)) of the Local Government Act, Council move behind closed doors to consider legal advice

CARRIED 9/0

AT THIS POINT THE TIME BEING 6:53PM, THE MEETING WENT BEHIND CLOSED DOORS.



1097. (AG Item) (scm1_4_2001) - SUSPENSION OF STANDING ORDERS

MOVED Clr Allen SECONDED Mayor Lee that Council suspend standing orders to enable Council to consider legal advice.

CARRIED 9/0

1098. (AG Item) (scm1_4_2001) - RESUMPTION OF STANDING ORDERS

MOVED Clr Waters SECONDED Clr Whitfield that Council resume Standing Orders.

CARRIED 9/0

1099. (AG Item 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

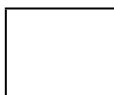
MOVED Clr Waters SECONDED Clr Oliver that Council reject the claim by Mr J. Grljusich for reimbursement of legal and other expenses incurred as a result of the Martin & Vicary and Douglas Inquiries.

Amendment

MOVED Clr Allen that:

- 1) Council offer the claimants an ex-gratia payment (an amount including terms and conditions) to be agreed in consultation with Council's Solicitors; and

MAYOR LEE ADVISED THAT THE AMENDMENT WAS NOT ACCEPTABLE AS IT NEGATED THE INTENT OF THE ORIGINAL MOTION.



MOTION PUT AND CARRIED 7/2**CLR RENNIE REQUESTED THAT THE VOTES BE RECORDED:****FOR: CLR WATERS, CLR REEVE-FOWKES, CLR OLIVER,
MAYOR LEE, DEPUTY MAYOR GRAHAM, CLR RENNIE AND CLR
WHITFIELD****AGAINST: CLR HUMPHREYS AND CLR ALLEN****Explanation**

Council was not rejecting the claim because of the adverse findings of the Douglas Inquiry, but because the authorisation of financial assistance to Mr Grljusich was revoked pursuant to Clauses 18 & 19 of the previous Policy A1.18. Council also believed it appropriate that Mr Grljusich's and Mr Pecotic's claims should be dealt with separately.

**1100. (AG Item) (scm1_4_2001) - CLAIM FOR REIMBURSEMENT OF
LEGAL AND OTHER EXPENSES - M PECOTIC (1335) (ATC)
(ATTACH)**

COUNCIL DECISION

MOVED Cllr Waters SECONDED Deputy Mayor Graham that Council reject the claim by Mr M. Pecotic for reimbursement of legal and other expenses incurred as a result of the Martin & Vicary and Douglas Inquiries.

CARRIED 7/2**FOR: CLR WATERS, CLR REEVE-FOWKES, CLR OLIVER,
MAYOR LEE, DEPUTY MAYOR GRAHAM, CLR RENNIE AND CLR
WHITFIELD****AGAINST: CLR HUMPHREYS AND CLR ALLEN****Explanation**

Council was not rejecting the claim because of the adverse findings of the Douglas Inquiry, but because the authorisation of financial assistance to Mr Pecotic was revoked pursuant to Clauses 18 & 19 of the previous Policy A1.18.



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)(1) 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

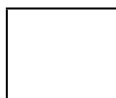
- (1) Mr Grljusich claiming reimbursement of \$50,212.53 in respect of costs incurred as a result of the Martin and Vicary Inquiry and the Douglas Inquiry.
- (2) Mr Pecotic claiming reimbursement of legal costs and payment for time lost in respect of the Martin and Vicary Inquiry and the Douglas Inquiry,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

1101. (AG Item) (scm1_4_2001) - MEETING OPEN TO THE PUBLIC

MOVED Clr Humphreys SECONDED Mayor Lee that the meeting be opened to the public.

CARRIED 9/0

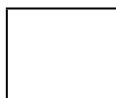
AT THIS POINT THE TIME BEING 9:08PM, THE MEETING WAS OPENED TO THE PUBLIC.

THE PRESIDING MEMBER READ ALOUD THE DECISIONS MADE BEHIND CLOSED DOORS.

1102. (AG Item 10.1) (scm1_4_2001) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)

MOVED Clr Reeve-Fowkes SECONDED Clr Waters that 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.

CARRIED 9/0

Meeting closed at 9:12pm.

CONFIRMATION OF MINUTES

I, (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: Date:/...../.....

