

City of Cockburn
Special Council Meeting
Minutes

For Monday, 4 November 2019

These Minutes are confirmed

Presiding Member's signature

Logan Hewlett.

Date: 14 November 2019

CITY OF COCKBURN

SUMMARY OF MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON MONDAY, 4 NOVEMBER 2019 AT 7:00 PM

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CITY OF COCKBURN

MINUTES OF SPECIAL COUNCIL MEETING HELD ON MONDAY, 4 NOVEMBER 2019 AT 7:00 PM

PRESENT:

ELECTED MEMBERS

Mr L Howlett	-	Mayor (Presiding Member)
Ms L Kirkwood	-	Deputy Mayor
Ms L Smith	-	Councillor
Mr M Separovich	-	Councillor
Dr C Terblanche	-	Councillor
Mr P Eva	-	Councillor
Ms C Stone	-	Councillor
Ms P Corke	-	Councillor
Mr T Widenbar	-	Councillor

IN ATTENDANCE

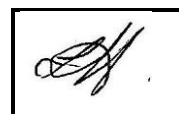
Mr S Downing	-	Acting Chief Executive Officer
Mr D Arndt	-	Director Planning & Development (Dep. 7:05pm)
Mr D Green	-	Director Governance & Community Services
Mr C Sullivan	-	Director Engineering & Works Development (Dep. 7:05pm)
Mr N Mauricio	-	Acting Director Finance and Corporate Services (Dep. 7:05pm)
Mrs G Bowman	-	Executive Manager, Strategy & Civic Support Development (Dep. 7:05pm)
Mrs L Spearing	-	Personal Assistant to CEO (Dep. 7:08pm)
Ms R Harding	-	Jackson McDonald
Ms B Swanson	-	Jackson McDonald

1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7:00pm.

“Kaya, Wanju Wadjuk Budjar” which means “Hello, Welcome to Wadjuk Land”

The Presiding Member acknowledged the Nyungar People who are the traditional custodians of the land on which the meeting is being held and pay respect to the Elders of the Nyungar Nation, both past and present and extend that respect to Indigenous Australians who are with us tonight.



2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)

Nil

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 AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)

Nil

5. APOLOGIES & LEAVE OF ABSENCE

Mr K Allen - Councillor	-	Apology
Mr S Cain - Chief Executive Officer	-	Leave of Absence

6. PUBLIC QUESTION TIME

Mr Ramon Woodcock, Spearwood

Q1. Mr Woodcock raised a question referencing litigation between specific councillors.

A1. The matter does not relate to the Agenda item.

7. DEPUTATIONS

Nil

8. DECLARATION BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING

Nil



9. PURPOSE OF MEETING

The purpose of the meeting is to consider a confidential staff matter.

**(2019/MINUTE NO 0196) MEETING TO PROCEED BEHIND
CLOSED DOORS****COUNCIL DECISION**

MOVED Mayor L Howlett SECONDED Cr C Stone

That Council, pursuant to Section 5.23(2)(a) of the Local Government Act 1995, proceed behind closed doors the time being 7:03pm to consider Item 10.1 – Consider a Confidential Staff Matter.

CARRIED 9/0

Reason for Decision

To consider a confidential staff matter.

Mayor Howlett acknowledged Ms R Harding and Ms B Swanson of Jackson McDonald, to the meeting at 7:04pm.

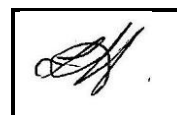
Directors Planning and Development, Engineering and Works, Acting Director Finance and Corporate Services, Executive Manager, Strategy and Civic Support left the meeting at 7:05pm.

(2019/MINUTE NO 0197) SUSPENSION OF STANDING ORDERS**COUNCIL DECISION**

MOVED Deputy Mayor L Kirkwood SECONDED Cr C Stone

That Council, pursuant to clause 22.1 of Standing Orders suspended the meeting procedures, the time being at 7:07pm.

CARRIED 9/0



Minute Clerk left the meeting at 7:08pm.

(2019/MINUTE NO 0198) RESUMPTION OF STANDING ORDERS

COUNCIL DECISION

MOVED Cr P Eva SECONDED Cr C Stone

That Standing Orders be resumed, the time being 8:57pm.

CARRIED 9/0

(2019/MINUTE NO 0199) EXTENSION OF MEETING

COUNCIL DECISION

MOVED Cr M Separovich SECONDED Cr C Stone

That Council extend the meeting for a period of 10 minutes, in accordance with Clause 4.13 of Council's Standing Orders Local Laws.

CARRIED 9/0

Reason for Decision

To enable the reason for Council to be concluded.



10. COUNCIL MATTERS

10.1 (2019/MINUTE NO 0200) CONSIDER A CONFIDENTIAL STAFF MATTER

Author(s)	S Downing
Attachments	<ol style="list-style-type: none"> 1. Statement from the CEO 23/10/19 (CONFIDENTIAL) 2. Mayor's letter to the CEO dated 28/10/19 (CONFIDENTIAL) 3. Legal advice from Jackson McDonald (legal Privilege asserted) (CONFIDENTIAL)

RECOMMENDATION

That Council

- (1) initiate an investigation as per the Terms of Reference contained in the legal advice attached under separate confidential cover and consider the outcomes and advice arising from the investigation at a future Meeting; and
- (2) provide the Chief Executive Officer with special paid leave whilst the investigation takes place, on the basis that he is not to return to work or attend to work related functions pending the outcomes of the investigation being considered by Council.

COUNCIL DECISION

MOVED Cr C Stone SECONDED Cr M Separovich

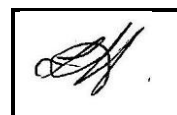
That Council undertakes the action agreed to, as contained in the confidential resolution made behind closed doors.

CARRIED 6/3

Cr Smith requested her vote against the motion to be recorded.

Reason for Decision

Council wished for the resolution made in response to this matter to remain confidential.



Background

The Special Council meeting has been requested to deal with the Statement from the CEO dated 23 October 2019, a copy of which is attached to this report under separate confidential cover.

Submission

N/A

Report

The Chief Executive Officer, Mr Stephen Cain, issued a statement by email to all Elected Members on the 23 October 2019 titled "Statement from the CEO" in which Mr Cain made claim that the City of Cockburn, as his employer, is not providing him with a safe working place.

Mr Cain provided Council with a doctor's note stating he was unfit to attend work for the period 23 October to 8 November 2019 due to the issues associated with the Statement from the CEO.

The Mayor wrote to the Chief Executive Officer on the 28 October 2019 acknowledging the email and medical certificate. The Mayor assured the CEO the City was committed to providing a safe workplace and the Elected Members will be collectively addressing the CEO's concerns with the utmost seriousness and urgency with the primary focus being on his health and wellbeing.

The CEO was advised of the recommended actions the Council was going to consider.

At the same time, legal advice was requested from Council's solicitors, Jackson McDonald, represented by Ms Renae Harding and Mr Mathew Reid, a copy of which is also attached under separate confidential cover.

Given the serious nature of the allegations made, it is recommended that Council initiates an investigation into them in order to be in a position to make more informed decisions on the outcomes of the investigation.

Once the report from the investigator is completed, the solicitors will provide Council with a report on the outcomes of the investigation and actions for council to consider. The report of the investigator will have legal privilege and will not be released unless Council waives that legal privilege.

The timeframe for such an investigation is unknown and will be dependent on the availability of relevant persons.



In the meantime, it is recommended that Council grants special paid leave to Mr Cain, in order for the matters raised to be adequately assessed and a subsequent report prepared for Council to consider.

Strategic Plans/Policy Implications

Leading & Listening

Attract, engage, develop and retain our employees in accordance with the Workforce and Long Term Financial Plan.

Budget/Financial Implications

The actual cost of this action is uncertain at this stage especially if the CEO and Elected Members are reimbursed legal fees under the existing policy of Council.

Legal Implications

As noted above, the City will be represented by Jackson McDonald in this matter.

Community Consultation

N/A

Risk Management Implications

The provision of a safe work place is paramount. The extent of the claims in the Statement from the CEO will need to be examined and if found substantiated, changes to processes and protocols will need to be implemented. Consequently, there is a “Substantial” level of “Occupational Health and Safety / Well Being” risk associated with this item.

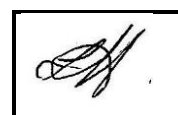
There is also a “High” level of “Financial Impact” risk associated with this item.

Advice to Proponent(s)/Submitters

Nil

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

Nil



(2019/MINUTE NO 0201) OPEN MEETING TO PUBLIC

COUNCIL DECISION

MOVED Cr M Separovich SECONDED Cr C Terblanche

That the meeting resume with open doors in accordance with Section 5.23(a) of the Local Government Act 1995, the time being 9:01pm.

CARRIED 9/0

11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY MEMBERS OR OFFICERS

Nil

12. CONFIDENTIAL BUSINESS

Nil

13. (2019/MINUTE NO 0202) RESOLUTION OF COMPLIANCE

RECOMMENDATION

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

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) 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
- (3) managed efficiently and effectively.

COUNCIL DECISION

MOVED Cr C Stone SECONDED Cr P Eva

That the recommendation be adopted.

CARRIED 9/0



14. CLOSURE OF MEETING

The meeting closed at 9:02pm

