

Special Council Meeting

Minutes for 10 December 2012



**shire of
kalamunda**

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MINUTES

1.0 OFFICIAL OPENING

The Acting Chief Executive Officer opened the meeting at 5.30 pm, welcoming Councillors, Staff and Members of the Public Gallery.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Sue Bilich	North Ward
Margaret Thomas	North Ward
Justin Whitten	South West Ward
Allan Morton	South West Ward
Noreen Townsend	South West Ward
Geoff Stallard	South East Ward
John Giardina	South East Ward
Frank Lindsey	South East Ward
Martyn Cresswell	North West Ward
Dylan O'Connor	North West Ward
Bob Emery	North West Ward

Members of Staff

Rhonda Hardy	Director Corporate & Community Services
Clayton Higham	Director Development & Infrastructure Services
Darrell Forrest	Manager Governance
Donna McPherson	Minutes Secretary

Members of the Public 7

Members of the Press 1

2.2 Apologies

Nil.

2.3 Leave of Absence Previously Approved

Nil.

3.0 ELECTION OF SHIRE PRESIDENT

3.1 The Acting Chief Executive Officer explained the election process to the meeting. The meeting was advised that nominations for the position of Shire President were received from

1. Cr Sue Bilich
2. Cr Allan Morton.

The Acting Chief Executive Officer call for any further nominations. As there were no further nominations the nomination period was closed at 5.31pm.

The vote for Shire President was conducted by secret ballot with the Acting Chief Executive Officer as the returning officer for the election. The Acting Chief Executive Officer and the Manager of Governance left the meeting at 5:35pm and returned at 5.40pm during which time the votes for Shire President were counted.

The result of the election was

1. Cr Sue Bilich 8 Votes
2. Cr Allan Morton 3 Votes

Cr Sue Bilich was declared duly elected to the position of Shire President.

3.2 Cr Sue Bilich accepted the position of Shire President and made a declaration before the meeting.

3.3 Cr Bilich assumed the Chair at 5.43pm.

4.0 PUBLIC QUESTION TIME

A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of this meeting. For the purposes of Minuting, these questions and answers are summarised.

4.1 Clive Granham – Wattle Grove

4.1.1 Q. It was suggested in newspaper articles that the Shire was negotiating a settlement with the former CEO. What needs to be negotiated if there is a breach of contract?

A. As this matter is confidential the question will be taken on notice.

4.1.2 Q. If there is to be a negotiation is that so there can be a confidentiality clause included in any agreement? When will the minutes of the meeting be available?

A. The minutes of the meeting are being finalised and will be available in the next day or so. There are elements of the matter which will remain confidential.

4.1.3 Q. Has the Deloitte report gone to the Minister?

A. Not at this stage.

4.2 Jane Genevese – Wattle Grove

4.2.1 Q. Why is the matter confidential?

A. As it is a matter affecting an employee.

5.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

5.1 **7.2 Finalisation of the Matter Related to the CEO** Provided under separate cover.

Reason for Confidentiality – Local Government Act 1995: Section 5.23 (2) (a), "a matter affecting an employee or employees".

6.0 DISCLOSURE OF INTERESTS

6.1 Disclosure of Financial and Proximity Interests

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- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*.)
 - b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*.)

6.1.1 Nil.

6.2 **Disclosure of Interest Affecting Impartiality**

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

6.2.1 Nil.

7.0 **REPORTS TO COUNCIL**

Please Note: declaration of financial/conflict of interests to be recorded prior to dealing with each item.

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

7.1 To Elect the Shire President

Completed at Item 3 of this Agenda.

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

7.2 Finalisation of the Matter Related to the CEO – provided under separate cover

Reason for Confidentiality – *Local Government Act 1995*: Section 5.23 (2) (a), “a matter effecting an employee or employees”.

8.0 MEETING CLOSED TO THE PUBLIC

8.1 Meeting Closed to the Public

RESOLVED SCM 174/2012

That the meeting go behind closed doors to consider CONFIDENTIAL REPORT- (provided under separate cover) Finalisation of the Matter Related to the CEO.

Moved: **Cr Martyn Cresswell**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (11/0)**

The meeting closed to the public at 5.46pm. All members of the public, press and Manager of Governance left the meeting. The Acting Chief Executive Officer provided a briefing to Council.

8.2 Suspension of Standing Orders

RESOLVED SCM 175/2012

That in accordance with Clause 18.1 of the Standing Orders all clauses in the Standing Orders be suspended.

Moved: **Cr John Giardina**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Standing Orders were suspended at 5.51pm.

8.3 Resumption of Standing Orders

RESOLVED SCM 176/2012

That in accordance with Clause 18.1 of the Standing Orders all clauses in the Standing Orders be resumed.

Moved: **Cr Martyn Cresswell**

Seconded: **Cr Bob Emery**

Vote: **CARRIED UNANIMOUSLY (11/0)**

Standing Orders resumed at 6.06pm.

8.4 **Meeting Opened to the Public**

RESOLVED SCM 177/2012

That the meeting open to the public following the consideration of CONFIDENTIAL REPORT- (provided under separate cover) Finalisation of the Matter Related to the CEO.

Moved: **Cr Justin Whitten**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY (11/0)**

The meeting open to the public at 6.12pm. All Council and staff in attendance at the adjournment were present excluding the Manager of Governance. Member of the public and press also returned to the Council Chambers at the resumption of the meeting. The Chairman read the Resolution of Council to the meeting.

8.5 **7.2 Finalisation of the Matter Related to the CEO**

Reason for Confidentiality – Local Government Act 1995: Section 5.23 (2) (a), "a matter effecting an employee or employees".

RESOLVED SCM 178/2012

That Council:

1. Having considered the allegations, the evidence and responses to the allegations in relation to the conduct of the Chief Executive Officer, Mr James Trail, Council has formed the opinion that the Chief Executive Officer's conduct constitutes serious misconduct as defined in clause 10.3(1) of the contract of employment and has resolved to summarily terminate the employment on those grounds effective the 10 December 2012.
2. Request the Acting Chief Executive Officer to pay all accrued leave and salary entitlements to Mr James Trail up to and inclusive of the 10 December 2012.
3. Request the Acting Chief Executive Officer to advise Mr James Trail that he must return all Shire property and documents (including emails that were forwarded to the personal home email address) by Friday 15 December 2012.

Moved: **Cr John Giardina**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (11/0)**

9.0 CLOSURE

9.1 There being no further business, the Chairman declared the meeting closed at 6.15 pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Chairman

Dated this _____ day of _____ 2012