

Special Council Meeting

Minutes for 5 December 2012



**shire of
kalamunda**

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MINUTES

1.0 OFFICIAL OPENING

The Chairman opened the meeting at 5:30pm, welcoming Councillors, Staff, representative from Jackson MacDonald, Solicitors and Auditors from Deloitte Touche Tomatsu and acknowledged there was no members of the public present.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Donald McKechnie	(Shire President)(Chairman)	North Ward
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

Clayton Higham	Acting Chief Executive Officer
Rhonda Hardy	Director Corporate & Community Services

Members of the Public Nil

Members of the Press Nil

2.2 **Apologies** Nil

2.3 **Leave of Absence Previously Approved** Nil

3.0 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.

3.1 Nil.

4.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

4.1 Final Report of the Forensic Audit into Issues Affecting an Employee

(Provided under separate cover.)

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

5.0 DISCLOSURE OF INTERESTS

5.1 Disclosure of Financial and Proximity Interests

- 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*.)

5.1.1 The Acting CEO, Clayton Higham, declared a financial interest in Recommendation 2 of Item 6.1 -Final Report of the Forensic Audit into Issues Affecting an Employee – as he is a candidate for Acting CEO.

5.1.2 The Director Corporate & Community Services, Rhonda Hardy, declared a financial interest in Recommendation 2 of Item 6.1 -Final Report of the Forensic Audit into Issues Affecting an Employee – as she is a candidate for Acting CEO.

5.2 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.

5.2.1 Nil.

6.0 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.

6.1 Final Report of the Forensic Audit into Issues Affecting an Employee

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

The report is provided under separate cover.

7.0 MEETING CLOSED TO THE PUBLIC

7.1 Meeting Closed to the Public

RESOLVED SCM 149/2012

That the meeting go behind closed doors to consider CONFIDENTIAL REPORT- (provided under separate cover) Final Report of the Forensic Audit into Issues Affecting an Employee.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Martyn Cresswell**

Vote: **CARRIED UNANIMOUSLY (12/0)**

The meeting closed to the public at 5.33pm.

7.2 Suspension of Standing Orders

RESOLVED SCM 150/2012

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

Moved: **Cr Martyn Cresswell**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (12/0)**

Standing Orders were suspended at 5.34pm to allow the Auditors to give a presentation on the findings of the Forensic Audit.

Cr O'Connor, Cr Thomas and Cr Giardina left the Council Chambers at 6.46pm. Cr O'Connor and Cr Thomas returned to the Council Chambers at 6.49pm.

Cr Townsend left the Council Chambers at 6.56pm. Cr Townsend returned to the Council Chambers at 6.59pm.

Cr Bilich left the Council Chambers at 7.10pm. Cr Bilich returned to the Council Chambers at 7.12pm.

Cr Giardina returned to the Council Chambers at 7.15pm.

7.3 Resumption of Standing Orders

RESOLVED SCM 151/2012

That the Standing Orders be resumed.

Moved: **Cr Sue Bilich**
Seconded: **Cr Bob Emery**
Vote: **CARRIED UNANIMOUSLY (12/0)**

Standing Orders resumed at 7.13pm and the meeting proceeded.

7.4 **Adjournment of Special Council Meeting**

RESOLVED SCM 152/2012

That the Special Council Meeting be adjourned until 8.30pm.

Moved: **Cr Frank Lindsey**
Seconded: **Cr Justin Whitten**
Vote: **CARRIED UNANIMOUSLY (12/0)**

The meeting was adjourned at 7.14pm.

7.5 **Resumption of Special Council Meeting**

RESOLVED SCM 154/2012

That the Special Council Meeting resume.

Moved: **Cr Frank Lindsey**
Seconded: **Cr Allan Morton**
Vote: **CARRIED UNANIMOUSLY (12/0)**

The meeting resumed at 7.17pm. All in attendance at the adjournment were present at the resumption of the meeting.

7.6 **Suspension of Standing Orders**

RESOLVED SCM 155/2012

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

Moved: **Cr Frank Lindsey**
Seconded: **Cr Allan Morton**
Vote: **CARRIED UNANIMOUSLY (12/0)**

Standing Orders were suspended at 7.18pm to allow for legal advice to be presented to the Council.

At Cr Giardina left the meeting at 7.35pm and return at 7.54pm.

The Acting CEO left the meeting at 7.41pm and returned 7.44pm.

7.7 **Resumption of Standing Orders**

RESOLVED SCM 156/2012

That the Standing Orders be resumed.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (12/0)**

Standing Orders resumed at 8.28 pm and the meeting proceeded.

7.8 **Adjournment of Special Council Meeting**

RESOLVED SCM 157/2012

That the Special Council Meeting be adjourned.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Martyn Cresswell**

Vote: **CARRIED UNANIMOUSLY (12/0)**

The meeting was adjourned at 8.33pm.

7.9 **Resumption of Special Council Meeting**

RESOLVED SCM 160/2012

That the Special Council Meeting resume.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Sue Bilich**

Vote: **CARRIED UNANIMOUSLY (12/0)**

The meeting resumed at 8.35pm. All in attendance at the adjournment were present at the resumption of the meeting.

7.10 **Final Report of the Forensic Audit into Issues Affecting an Employee**

(Provided under separate cover.)

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

That Council:

RESOLVED SCM 161/2012

1. Agrees to appoint Mr Stephen Kemp from Jackson's MacDonalDs to negotiate a settlement with the lawyers representing Mr James Trail.
2. Appoints a committee comprising of Councillor Emery, Councillor Giardina, Councillor McKechnie and Councillor Morton to settle the terms of any Deed.
3. Appoints the Acting Chief Executive Office and the Shire President to execute the deed of release and settlement.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (12/0)**

7.11 **Final Report of the Forensic Audit into Issues Affecting an Employee**

(Provided under separate cover.)

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

RESOLVED SCM 161/2012

That Council:

1. Appoints an Acting Chief Executive Officer as follows:
 1. For the period 6 December 2012 until 31 December 2012 - Mr Clayton Higham.
 2. For the period 1 January 2013 to 31 March 2013 - Ms Rhonda Hardy.
 3. For the period 1 April 2013 to 30 June 2013 - Mr Clayton Higham.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY (12/0)**

7.12 **Final Report of the Forensic Audit into Issues Affecting an Employee**

(Provided under separate cover.)

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

RESOLVED SCM 162/2012

That Council:

2. Requests the Shire President to negotiate a salary package for endorsement by Council.

Moved: **Cr Frank Lindsey**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY (12/0)**

7.13 **Final Report of the Forensic Audit into Issues Affecting an Employee**

(Provided under separate cover.)

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

RESOLVED SCM 163/2012

That Council:

3. Appoints the Shire President, the Deputy Shire President and the Chairs of the Standing Committees to commence the process for the recruitment of a new Chief Executive Officer in accordance with Section 5.36 of the *Local Government Act 1995*.

Moved: **Cr John Giardina**

Seconded: **Cr Noreen Townsend**

Vote: **CARRIED UNANIMOUSLY (12/0)**

7.14 **Meeting Open to the Public**

RESOLVED SCM 164/2012

That the meeting reopen to the public after consideration CONFIDENTIAL REPORT- (provided under separate cover) Final Report of the Forensic Audit into Issues Affecting an Employee.

Moved: **Cr Martyn Cresswell**

Seconded: **Cr Justin Whitten**

Vote: **CARRIED UNANIMOUSLY (12/0)**

8.0 CLOSURE

8.1 There being no further business, the Chairman declared the meeting closed at 9.15pm

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

Signed: _____
Chairman

Dated this _____ day of _____ 2012