

Special Council Meeting
Minutes
13 December 2016

CONFIRMATION OF MINUTES

These minutes were confirmed by the Council on 15 December 2016 as a true and accurate record of the Special Council Meeting held on 13 December 2016.

A handwritten signature in black ink, appearing to read 'Cr (Turk) Shales', is positioned above a dotted line.

.....
Cr (Turk) Shales
Shire President

All attachment items referred to in these minutes are available for public perusal at the Shire Office

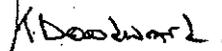
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Signed at Exmouth



(K Woodward), Acting Chief Executive Officer Shire of Exmouth

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SPECIAL COUNCIL MEETING MINUTES

Our Vision

To support and develop a vibrant, welcoming community that embraces its past, values its present and plans for a sustainable future

Our Purpose

To responsibly provide governance for the whole community in the best interest of current and future generations

Our Strategic Objectives

- To provide sustainable management of the organisation
- To consistently apply the principles of Good Governance
 - To communicate effectively
 - To promote socioeconomic development
 - To value our environment and heritage

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President welcomed the gallery and declared the meeting open at 2.00 pm.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillor C (Turk) Shales
Councillor M Hood
Councillor J Roscic
Councillor McHutchison
Councillor G Jones
Mr K Woodward
Mrs S O'Toole
Mr Roge Kempe
Mrs M Head

Shire President
Deputy Shire President

Acting Chief Executive Officer
Executive Manager Corporate Services
Executive Manager Community Engagement
Minute Clerk

GALLERY

Visitors 36

APOLOGIES

Mr B Price Chief Executive Officer
Mr R Manning Executive Manager Health and Building
Mr R Mhasho Executive Manager Town Planning
Mrs J Kox Executive Manager Aviation Services

LEAVE OF ABSENCE

Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

The below question was taken on notice from Ken Downes at the Special Council Meeting held on the 18 November 2016.

Question

Why did the Councillors that knew about the signing of the contract do nothing? They should step down. There is now broken trust issues.

Response

The Shire President advised that we still do not have an answer to this question at this time and the Acting Chief Executive Officer will respond in due course.

4. PUBLIC QUESTIONS TIME

In accordance with section 5.24 of the Local Government Act 1995, a 15 minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

Council Consideration Towards Public

When public questions necessitate resolutions of Council, out of courtesy and at the President discretion the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy and at the discretion of the President the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

The Shire President opened public question time.

In accordance with section 11 of the *Local Government (Administration) Regulations 1996*:

11 . Minutes, content of (Act s. 5.25(1)(f))

The content of minutes of a meeting of a council or a committee is to include —

- (e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question;***

Question by Ken Downes

My question is in relation to the legal advice obtained in relation to the CCC investigation.

What was the cost of that advice?

The Acting Chief Executive Officer responded: The cost is \$25,000 - \$30,000.

Secondly given it was funded by the ratepayers of Exmouth will the Council now disclose the full nature of that advice?

The Acting Chief Executive Officer responded: 99% of the advice given to date is regarding employment matters. Employment matters are private matters within the Shire and are not open to public scrutiny. They have been made available to Department of Local Government and Corruption and Crime Commission (CCC).

Thirdly will the Council please advise what action the Council has taken or proposes to take in relation to both legal advice and the CCC disclosures?

The Acting Chief Executive Officer responded: Today's agenda is on the table for a decision by Council. The other Shire employees are the responsibility of the Acting Chief Executive Officer.

A Show Cause Notice was issued to the Shire of Exmouth.

We have legal advice regarding the CCC disclosure and we are now waiting on the final report with recommendations from the CCC.

We will review our Policy and Delegation manual as advised by CCC and Department of Local Government.

A summary will be made available to the public after the Behind Closed Doors section of the agenda.

Councillor Shales advised that the matters to be discussed in this meeting related to individual employee contracts and would be behind closed doors, however if people wanted to remain outside a summary of the matters discussed behind closed doors would be given afterwards.

5. DECLARATIONS OF INTEREST

Nil.

6. APPLICATIONS FOR LEAVE OF ABSENCE

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

Nil.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil.

8. ANNOUNCEMENTS BY THE PRECIDING PERSON

Councillor Shales asked gallery if they had heard the ABC radio interview last week – no response was heard from gallery. He went on to say he found the interview to be damning and incorrect, because the Minister stated in the radio interview that Council had not done anything so far.

He went on to read out the letter from Council which was sent to the Minister in response to the Ministers letter dated 22 November 2016:

Dear Minister

In response to your correspondence dated 22 November 2016, please be assured that the Exmouth Shire Council are taking this matter very seriously and are working hard to restore the community's confidence in the Shire. The Council, the Acting Chief Executive Officer and the Executive Management team are focused on the continuance of dependable efficient governance and leadership to our community, business and the workplace.

We are operating as a functional Local Government discharging our responsibilities under the Local Government Act 1995 and Regulation. The delivery of Shire services and projects remain on track.

Council has appointed Mr Keith Woodward as the Acting Chief Executive Officer. Mr Woodward has been employed by the Shire of Exmouth since 2002 as the Executive Manager of Engineering Services. The Acting Chief Executive Officer is to working through the implications of the Corruption and Crime Commission (CCC) investigation in consultation with the CCC, McLeod's Barrister and Solicitors, the Department of Local Government and Communities (DLGC) and the West Australian Local Government Association (WALGA).

The Shire has requested that the CCC release the original employment contracts, examination and investigation transcript including the 'private hearing' to McLeods. Once the Shire's solicitors receive the information from the CCC they will be in a position to advise the Shire on the appropriate actions to be taken under the Shire's employment contracts with Mr Bill Price, Mr Andrew Forte, Mrs Jennifer Kox and Mr Stephen Kox. McLeods have been asked, in particular, to advise whether the conduct of each of these employees constitutes a breach of their employment contracts and, if so, whether it warrants action by the Shire to terminate their employment contract, complying with procedural fairness requirements.

The regionally significant Ningaloo Centre, including the aquarium component, remains on schedule and is expected to open as planned in April 2017 ahead of the Shire's 50th Anniversary celebrations.

The Shire is/will be working in consultation with the DLGC and WALGA to review our policies and procedures to find ways to further improve governance and professional management, We will continue to provide staff and Councillors with opportunities to improve their understanding of good public sector management through training and professional support.

We thank you for your interest and we invite you and or your advisor to contact us as required.

Councillor Shales stated it was unfair that the Minister had not referred to the contents of this letter during his radio interview.

9. PETITIONS, DEPUTATION, PRESENTATIONS AND SUBMISSIONS

Nil.

10. REPORTS OF COUNCILLORS

Statement made by Councillor Hood:

Note: this transcript is copied from the written statement presented by Cr Hood. The profanities have not been included.

"I would like to take this opportunity to thank the CCC for finding out the truth about the fish tank.

With the 1.1 million for the fish tank and the cost of the investigation is probably the most expensive fish tank in the state.

The investigation brought to light that a couple of people made some errors in judgment concerning the fish tank. The errors were of a serious nature but they were procedural and neither made any financial gain from these errors. For those errors they will be held accountable.

At the end of the day for our 1.1 million we will have a sensational aquarium in the sensational Ningaloo Centre. The centre will be finished on time and on budget. This centre will provide the community and tourists a world class facility that showcases what the Ningaloo Reef and Exmouth have to offer. It will also provide locals with new community and education facilities that are first class.

For the taxpayer money spent on this investigation the CCC has a one page summary and the shattered reputations of two great blokes who made a couple of mistakes. Should they be held accountable for their errors? Absolutely. But the character assassination that took place online to the world, was a disgrace. For an open account of the Exmouth Shire it was one sided. These men have been passionate advocates for Exmouth and have delivered some fantastic results and projects for our Community.

The CCC is a contradiction; it says it's all about bringing things out into the open. It does this by threatening everyone involved with massive fines and jail time if they discussed the case.

It says it should be transparent while maintaining due regard for the infringement of people's privacy. It does this by tapping private mobile phones, recording conversations between a mother and daughter and showing a man's bank details online to the world, account numbers and all. It says the benefit of public examinations is so people can listen and form their own views. With one person from the CCC doing all the talking and asking closed questions, you really only get a biased view of the witness.

The CCC accused Councillors of having friendships that cause a conflict of interest and stop councillors from performing their duties. Coming from someone who has never met me I totally refute that notion.

In January of this year a person who has a great dislike for the Shire and its CEO told me to my face that the council would be gone by Christmas.

How is it possible that this person was privy to a top secret investigation that was going on six months before the raid on the Shire office in August.

Who has been doing favours for who?

Its been a disgrace then the last paragraph they say take it or leave it. That seems very flippant considering the amount of heartache damage and division they have caused.

If the Minister for Local Government stands us down without ever coming to talk to us and see we are moving forward to ensure these mistakes don't happen again he has a polarised view and he needs to hear both sides. The statements made on the ABC news by the Minister were misleading and basically incorrect. Councillor Todd resigned due to stress and the constant harassment from some members of the Community. There was no admission of any wrong doing by him.

Please don't mistake what I have said today as arrogance, this is pure anger. I am angry at the attack on this Shire and its staff from outside sources and within".

11. REPORTS OF OFFICERS

Nil

12. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil

14. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS

As the following report was a matter to be considered behind closed doors the Shire President asked the gallery and the Executive Managers and Minute Clerk to please leave the Chambers at 2.23 pm.

COUNCIL RESOLUTION**ITEM 14****Res No: 10-1216****MOVED: Cr Jones****SECONDED: Cr McHutchison**

That Council move Behind Closed Doors at 2.23 pm in accordance with the Local Government Act 1995 section 5.23 (2) (A) (C) and (D).

- **Employment/Legal Issue**

CARRIED 5/0

14.1 SUMMARY TERMINATION OF MR BILL PRICE

COUNCIL RESOLUTION**ITEM 14.1****Res No: 11-1216****MOVED: Cr McHutchison****SECONDED: Cr Roscic****That Council:**

- 1. Determines that the employment contract of Mr Bill Price is to be summarily terminated, effective immediately; and**
- 2. Authorised the Shire President to notify Mr Bill Price of this decision, in the terms of the draft letter attached to the report to the Council for this item.**

CARRIED 5/0

14.2 SHOW CAUSE NOTICE SECTION 8.15B OF THE LOCAL GOVERNMENT ACT 1995

COUNCIL RESOLUTION**ITEM 14.2****Res No: 12-1216****MOVED: Cr Jones****SECONDED: Cr McHutchison**

That Council authorises the Shire President to sign the draft correspondence in response to the Minister for Local Governments 'Show Cause Notice'.

CARRIED 4/1

COUNCIL RESOLUTION

ITEM 14

Res No: 13-1216

MOVED: Cr Roscic

SECONDED: Cr Hood

That Council return from Behind Closed Doors at 2.51 pm.

CARRIED 5/0

Prior to the meeting closing the Shire President invited the gallery back into the Chambers at 3.03pm and read out the behind closed doors resolution:

Report 14.1

That Council:

1. Determines that the employment contract of Mr Bill Price is to be summarily terminated, effective immediately; and
2. Authorised the Shire President to notify Mr Bill Price of this decision, in the terms of the draft letter attached to the report to the Council for this item.

Report 14.2

That Council authorises the Shire President to sign the draft correspondence in response to the Minister for Local Governments 'Show Cause Notice'.

15. CLOSURE OF MEETING

The Shire President closed the meeting at 3.08 pm.