



**MINUTES
OF THE
SPECIAL MEETING OF THE COUNCIL
HELD ON
MONDAY, 4 NOVEMBER 2019
AT 6.30PM IN THE COUNCIL CHAMBERS
MELVILLE CIVIC CENTRE**

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MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6:30PM ON MONDAY 4 NOVEMBER 2019.

1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:33pm. Mr B Taylor, Acting Executive Manager Governance and Legal, read aloud the Disclaimer that is on the front page of these Minutes and the following Affirmation of Civic Duty and Responsibility.

Affirmation of Civic Duty and Responsibility

I make this Affirmation in good faith on behalf of Elected Members and Officers of the City of Melville. We collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the City's Code of Conduct and Meeting Procedures Local Law to ensure the efficient, effective and orderly decision making within this forum.

2. PRESENT

Mayor Honourable G Gear

COUNCILLORS

Cr N Pazolli (Deputy Mayor)
Cr S Kepert
Cr N Robins
Cr C Robartson, Cr M Woodall
Cr J Barton
Cr K Mair, Cr M Sandford
Cr T Fitzgerald, Cr K Wheatland

WARD

Applecross – Mount Pleasant
Applecross – Mount Pleasant
Bateman – Kardinya - Murdoch
Bull Creek - Leeming
Bicton – Attadale – Alfred Cove
Central
Palmyra – Melville - Willagee

3. IN ATTENDANCE

Mr M Tieleman
Ms K Johnson
Mr B Taylor

Ms C Newman
Ms T Wright

Chief Executive Officer
Executive Manager Organisational Development
A/Executive Manager Governance and Legal
Services
A/Manager Governance and Property
Governance Officer

At 6:34pm Cr Mair entered the meeting.

At the commencement of the meeting there were no members of the public and one representative from the Press in the Public Gallery.

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE**4.1 APOLOGIES**

Ms C Young	Director Community Development
Mr S Cope	Director Urban Planning
Mr M McCarthy	Director Technical Services
Mr A Ferris	Director Corporate Services

4.2 APPROVED LEAVE OF ABSENCE

Cr D Macphail	Bateman – Kardinya - Murdoch Ward
Cr G Barber	Bicton – Attadale – Alfred Cove

**5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)
AND DECLARATIONS BY MEMBERS****5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN DUE
CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS
PAPERS PRESENTED BEFORE THE MEETING.**

Nil.

**5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ
THE ELECTED MEMBERS BULLETIN.**

Nil.

6. QUESTION TIME

Nil.

7. DEPUTATIONS

Nil.

8. DECLARATIONS OF INTEREST**8.1 FINANCIAL INTERESTS**

Nil.

8.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Nil.

9. APPLICATIONS FOR NEW LEAVES OF ABSENCE

At 6:37pm Cr Pazolli moved, seconded Cr Robartson –

That the application for a leave of absence submitted by Cr Woodall, Cr Wheatland and Cr Kepert on 4 November 2019 be granted.

At 6:38pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (11/0)

10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

- **M19/5711** Chief Executive Officer Performance Review

That the meeting be closed to members of the public, if required, to allow for items deemed confidential in accordance with Sections 5.23 (2) (a) and (c) of the *Local Government Act 1995* to be discussed behind closed doors.

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER

At 6:38pm Ms Johnson, Executive Manager Organisational Development commenced a presentation in relation to M19/5711 – Chief Executive Officer Performance Review [Presentation Chief Executive Officer Performance Review](#) The presentation concluded at 6:52pm.

M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC) (CONFIDENTIAL ATTACHMENT)

Ward	: All
Category	: Operational
Subject Index	: Personnel file
Customer Index	: Not Applicable
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item C18/5655 - Chief Executive Officer Recruitment - Special Meeting of Council 12 November 2018
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Kylie Johnson Executive Manager Organisational Development

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council reviews decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)
(CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

- In accordance with Council resolution (Item C18/5655 – Chief Executive Officer Recruitment - Special Meeting of Council 12 November 2018) a five year contract with the Chief Executive Officer (CEO) was entered into which became effective from the 20th of November 2018.
- In keeping with the requirements of the *Local Government Act 1995* the CEO's contract contains a requirement for an annual review, and there are elements of the employment contract which specify some elements that must occur. A confidential attachment of the employment contract has been provided.
- The annual CEO performance review process is ultimately the determination of the Council. The operational management of the process is through the direction of the Mayor, on behalf of Council and the Governance Committee. The Governance Committee has been determined by Council to be the reviewers of the CEO performance.
- The Governance Committee will discuss the CEO's performance, future expectations performance criteria, performance development plan and review the salary package, for recommendation to the Council.
- A defined process is proposed for the CEO performance review, as detailed in the agenda item, which incorporates a proposed performance survey by elected members.

BACKGROUND

On 20 November 2018 Marten Tieleman commenced in the role of Chief Executive Officer at the City of Melville. A five year contract, which is provided as a confidential attachment was finalised with the Chief Executive Officer, which defined the performance criteria for the role.

Clause 7 of the CEO contract details that there needs to be a review of remuneration on an annual basis at a time that is no later than three months after the anniversary of the commencement date.

DETAIL

The Chief Executive Officer performance review process that is attached has indicative estimated dates, and will commence once the Council has approved the stages to be followed, as per attachment: [5711 Chief Executive Officer Performance Review Process](#).

**M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)
(CONFIDENTIAL ATTACHMENT)**

The attached process includes a performance review survey that has been refined with a Performance Review Consultant through previous processes as per attachment: [5711 Chief Executive Officer Performance Review Survey](#).

The Council has not delegated to the Governance Committee all the powers, functions and duties necessary to make decisions, which includes the ability to select and appoint an external consultant to facilitate the performance review process of the Chief Executive Officer. Meetings of the Committee are not decision making forums and as such are not open to the member of the public.

Ultimately the overall process is the determination of the Council. The operational management of the process is through the direction of the Mayor, on behalf of Council and the Governance Committee, and is supported administratively by the Executive Manager Organisational Development, who acts under the Mayor's guidance.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

There are no public consultation/communication aspects relating to this item.

II. OTHER AGENCIES / CONSULTANTS

There has been no consultation for the 2019 performance review process with any other agencies/consultants at this stage, although there will be future involvement with respect to appointment of a Performance Review Consultant as identified in the proposed process of the CEO review.

STATUTORY AND LEGAL IMPLICATIONS

Section 5.16(1) of the *Local Government Act 1995*, states that "*Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation*" Absolute Majority required.

Section 5.38 of the *Local Government Act 1995* states the requirement to review a CEO's performance at least once a year in relation to every year of employment.

Section 5.39 (7) of the *Local Government Act 1995* states that a CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal..

Section 5.23 (2)(a) of the *Local Government Act 1995* states that a meeting by a Council or Committee, or part of a meeting, may be closed to members of the public if a matter affecting an employee is being dealt with.

**M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)
(CONFIDENTIAL ATTACHMENT)**

FINANCIAL IMPLICATIONS

The estimated cost of engaging a Performance Review Consultant, who acts as a facilitator to assist with the Performance Review process, is provided for within the current operational budget.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
That the performance criteria for the next twelve months are not determined and agreed	Low	Defined process that includes this stage

POLICY IMPLICATIONS

There are no policy implications applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

An alternate option to the past practice is that in accordance with section 5.16 of the *Local Government Act 1995*, the Council delegates to the Governance Committee all the powers, functions and duties necessary to select and appoint an external consultant to facilitate the performance review process of the Chief Executive Officer.

The current practice is that the Governance Committee review the short list of Consultants in conjunction with the Executive Manager Organisational Development who has the administrative responsibility to select and appoint the preferred Consultant.

CONCLUSION

The CEO performance review process provides feedback opportunities to the Council and Chief Executive Officer on performance over the past twelve months, and clarifies future expectations, which are to be reflected in the performance criteria of the Chief Executive Officer's Contract and the Performance Development Plan.

An outcome of the process is a resolution by the Council in relation to the Performance Criteria, Performance Development Plan and Salary Review for the Chief Executive Officer.

**M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)
(CONFIDENTIAL ATTACHMENT)**

COUNCIL RESOLUTION

At 7:01pm Cr Kepert moved, seconded Cr Barton –

That this meeting be adjourned to allow the Special Meeting of Council to deal with the Riseley Centre Parking to commence as advertised, with this meeting to recommence at the conclusion of that meeting.

At 7:03pm the Mayor submitted the motion, which was declared

CARRIED (8/3)

Vote Result Summary	
Yes	8
No	3

Vote Result Detailed	
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Pazolli	Yes
Cr Robins	Yes
Cr Sandford	Yes
Cr Woodall	Yes
Mayor	Yes
Cr Mair	No
Cr Robartson	No
Cr Wheatland	No

At 8:41pm the Mayor resumed the meeting

COUNCIL RESOLUTION

At 8:43pm Cr Barton moved, seconded Cr Kepert –

That the meeting be closed to the members of the public to allow for items deemed confidential in accordance with section 5.23(2)(a) and (c) of the *Local Government Act 1995*, to be discussed behind closed doors.

At 8:43pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (11/0)

**M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)
(CONFIDENTIAL ATTACHMENT)****OFFICER RECOMMENDATION (5711)****APPROVAL**

At 8:50pm Cr Robartson moved, seconded Cr Robins –

That the Council;

- 1 Approves the process detailed in Attachment 5711 Chief Executive Officer Performance Review Process for the Chief Executive Officer performance review.**
- 2 Approves the survey tool to be used for the Chief Executive Officer performance review as detailed in Attachment 5711 Chief Executive Officer Performance Review Survey.**

Amendment

At 8:50pm Cr Fitzgerald moved, seconded Cr –

That the Council amend the officer recommendation as follows:

- 1 include the following words at the end of point 1:
“with any changes necessary to effect resolution 2.”**
- 2 includes the following points at the end of point 2:
“, with;
a) the addition of a matrix mirroring Part 1 of that survey populated with the PRINCIPLE RESPONSIBILITIES AND DUTIES outlined at 8.1 – 8.7 of Annexure 1 to the CEO’s employment contract, and
b) the removal of Park 2 of that survey tool.”**

During the introduction of the amendment, Cr Fitzgerald amended the point 2, with the amendment being as follows:

Amendment

At 8:50pm Cr Fitzgerald moved, seconded Cr –

That the Council amend the officer recommendation as follows:

- 1 include the following words at the end of point 1:
“with any changes necessary to effect resolution 2.”**
- 2 includes the following points at the end of point 2:
“, with;
a) the addition of a such materials as recommended by the governance committee and approved by council,”**

LAPSED FOR WANT OF A SECONDER

**M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)
(CONFIDENTIAL ATTACHMENT)**

Procedural Motion

At 8:54pm Cr Fitzgerald moved, seconded Cr Kepert

That Item M19/5711 – Chief Executive Officer Performance Review be referred to the Governance Committee for consideration and recommendation back to the Council.

Procedural Motion

At 9:21pm Cr Robins moved, seconded Cr Wheatland –

That the motion be put.

At 9:22pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (11/0)

Procedural Motion

COUNCIL RESOLUTION

At 8:54pm Cr Fitzgerald moved, seconded Cr Kepert

That Item M19/5711 – Chief Executive Officer Performance Review be referred to the Governance Committee for consideration and recommendation back to the Council.

At 9:22pm the Mayor submitted the motion, which was declared

CARRIED (7/4)

Vote Result Summary	
Yes	7
No	4

Vote Result Detailed	
Cr Barton	Yes
Cr Kepert	Yes
Cr Mair	Yes
Cr Pazolli	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Mayor	Yes
Cr Fitzgerald	No
Cr Robartson	No
Cr Robins	No
Cr Woodall	No

**M19/5711 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)
(CONFIDENTIAL ATTACHMENT)****COUNCIL RESOLUTION**

At 9:25pm Cr Barton moved, seconded Cr Kepert -

That the meeting comes out from behind closed doors.

At 9:25pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (11/0)

12. CLOSURE

There being no further business to discuss, Mayor Honourable George Gear declared the meeting closed at 9:25pm.