



City of  
**Melville**

## **MINUTES**

### **SPECIAL MEETING OF THE COUNCIL**

**6:00pm Monday, 3 April 2023**

Held in the Council Chambers, Melville Civic Centre  
10 Almondbury Road, Booragoon

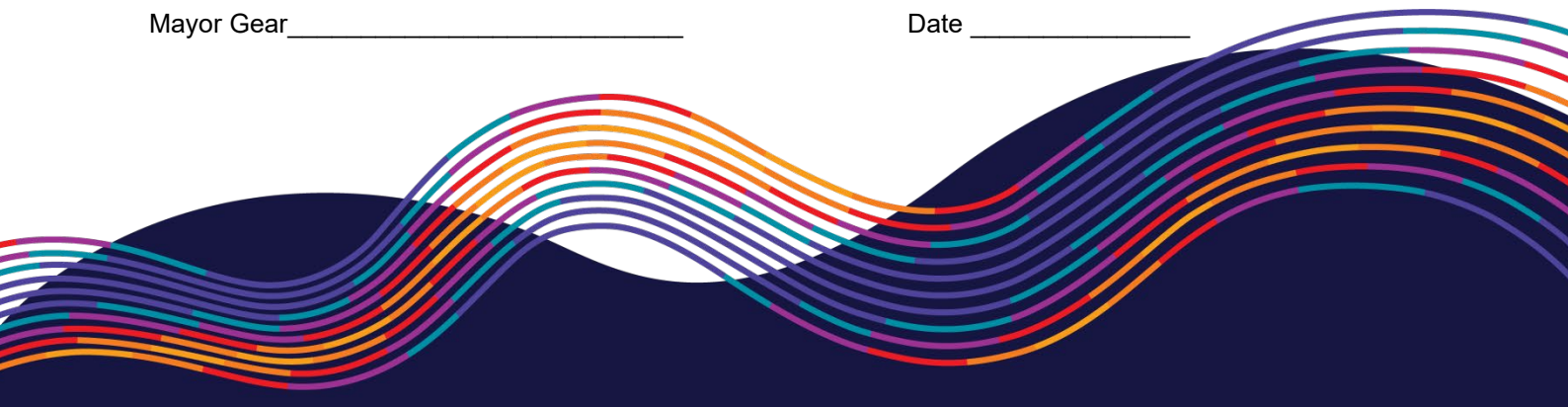
The City of Melville acknowledges the Bibbulmun people as the Traditional Owners and custodians of the lands on which the City stands today and pays its respect to the Whadjuk people, and Elders both past, present and emerging.

**Minutes to be confirmed at the next Ordinary Council Meeting**

These minutes are hereby confirmed as true and accurate

Mayor Gear \_\_\_\_\_

Date \_\_\_\_\_



## Our Vision

Engaging with our diverse community to achieve an inclusive, vibrant and sustainable future.

## Our Mission

To provide good governance and quality services for the City of Melville community.

## Our Values

### Excellence

Striving for the best possible outcomes

### Participation

Involving, collaborating and partnering

### Integrity

Acting with honesty, openness and with good intent

### Caring

Demonstrating empathy, kindness and genuine concern



## **Disclaimer**

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the City must obtain, and should only rely on, written notice of the City's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Committee meeting.

Any advice provided by an employee of the City on the operation of written law, or the performance of a function by the City, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the City. Any advice on a matter of law, or anything sought to be relied upon as representation by the City should be sought in writing and should make clear the purpose of the request.

## **Audio Recording/ access to Recording**

In accordance with the Council Policy CP- 088 Creation, Access and Retention of Audio Recordings of the Public Meetings this meeting is electronically recorded. All recordings are retained as part of the City's records in accordance with the State Records Act 2000 and the General Disposal Authority for Local Government Records. The Audio recording may be accessed at [www.melvillecity.com.au/agendas](http://www.melvillecity.com.au/agendas).

---

## CONTENTS

Attendance and Apologies	5
Public Question Time	6

### REPORTS FROM COMMITTEES

---

Nil.

### REPORTS

---

#### Corporate Services

C23/5967 CEO Request for Contract Renewal	8
---	---

### MOTIONS

---

#### With Previous Notice

Nil.

#### Without Previous Notice

Nil.

## 1 OFFICIAL OPENING

The Mayor welcomed those in attendance to the meeting and officially declared the meeting open at 6:02pm and invited Cr Barber to read the Acknowledgement of Country and advised those present of the Disclaimer, the Affirmation of Civic Duty and Responsibility and the Audio Recording Advice.

## 2 ATTENDANCE AND APOLOGIES

### In Attendance

Mayor Hon. George Gear

#### Councillors

Cr T Fitzgerald (Deputy Mayor)  
Cr K Wheatland  
Cr N Pazolli  
Cr C Ross  
Cr D Macphail (*from 6:04pm*)  
Cr N Robins  
Cr G Barber  
Cr J Edinger  
Cr J Spanbroek  
Cr M Woodall  
Cr M Sandford  
Cr K Mair

#### Ward

Palmyra – Melville – Willagee  
Palmyra – Melville – Willagee  
Applecross – Mount Pleasant  
Applecross – Mount Pleasant  
Bateman – Kardinya – Murdoch  
Bateman – Kardinya – Murdoch  
Bicton-Attadale-Alfred Cove Ward  
Bicton – Attadale – Alfred Cove  
Bull Creek – Leeming (*electronic attendance*)  
Bull Creek – Leeming  
Central  
Central

#### **Officers**

Mr M Tieleman ( <i>until 6:46pm</i> )	Chief Executive Officer
Mr L Rogers	Head of People and Culture
Ms C Newman	Head of Governance

At the commencement of the meeting:

Public Gallery	3
Electronic	0
Press	0

### **Apologies**

### **On Approved Leave of Absence**

Nil.

### **3 DECLARATIONS BY MEMBERS**

#### **3.1 Declarations by Members who have not read and given due consideration to all matters contained in the business papers presented before the Meeting.**

Nil.

#### **3.2 Declarations by Members who have received and not read the Elected Members Bulletin.**

Nil.

### **4 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**

Nil.

*At 6:04pm Cr Macphail entered the meeting.*

### **5 DISCLOSURES OF INTEREST**

#### **5.1 Financial or Proximity Interests**

Under sections 5.60A and/or 5.60B of the *Local Government Act 1995*

- Mr Tieleman - C23/5967 – CEO Request for Contract Renewal.

#### **5.2 Disclosure of Interest That May Cause a Conflict**

Under 22 *Local Government (Model Code of Conduct) Regulations 2021* or a City of Melville Code of Conduct)

Nil.

### **6 PUBLIC QUESTION TIME**

At 6:05pm the Mayor opened Question Time.

#### **6.1 Questions Received with Notice**

Nil.

#### **6.2 Questions Received at the Meeting**

6.2.1 Dr Peterson

##### Question 1

*Has the Chief Executive Officer, Mr Marten Tieleman, been fully open and transparent, fully honest, fully impartial and fully evidence based, with no distortion of information and no omission of information, to all Elected Members at all times?*

Response

The Mayor responded that to the best of his knowledge Mr Tieleman had been.

At 6:07pm the Mayor closed Question Time.

**7 AWARDS AND PRESENTATIONS**

Nil.

**8 APPLICATIONS FOR NEW LEAVES OF ABSENCE**

Nil.

**9 NEW BUSINESS OF AN URGENT NATURE**

Nil.

**10 IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

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

- C23/5967 – CEO Request for Contract Renewal

## 11 REPORTS

### Disclosure of Interest

Officer	Mr M Tieleman, Chief Executive Officer
Type of Interest	Financial
Nature of Interest	Current CEO
Request	Leave
Decision Leave	Leave

### Procedural Motion

#### **COUNCIL RESOLUTION**

At 6:08 Cr Robins moved, Seconded Cr Wheatland –

**That the meeting be closed to the members of the public to allow for the matter 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 6:09pm the Mayor declared the motion

**CARRIED (10/3)**

For	10	Cr Fitzgerald, Mayor Gear, Cr Robins, Cr Wheatland, Cr Sandford, Cr Barber, Cr Macphail, Cr Pazolli, Cr Mair, Cr Woodall,
Against	3	Cr Ross, Cr Edinger, Cr Spanbroek

At 6:10pm Mr Tieleman commenced a deputation, which concluded at 6:16pm. At 6:46pm Mr Tieleman, having declared and interest in this matter left the meeting.

#### **C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

This report is confidential in accordance with section 5.23(a) and (c) of the *Local Government Act 1995*:

“If a meeting is being held by Council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or part of the meeting deals with any of the following:

- (a) *a matter affecting an employees or employees.*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*

At 6:46pm Mr Rogers was available to answer questions.

At 6:53pm the Mayor left the meeting.

At 6:53pm Cr Fitzgerald assumed the Chair.

At 6:55pm the Mayor returned to the meeting.

At 6:55pm Cr Fitzgerald vacated the Chair.

At 7:00pm Cr Wheatland left the meeting and returned at 7:02pm.

At 7:03pm Cr Woodall left the meeting and returned at 7:07pm.

At 7:07pm Cr Edinger left the meeting and returned at 7:08pm.

At 7:16pm questions to Mr Rogers concluded and Mr Rogers left the meeting.

At 7:16pm Ms Newman left the meeting.

At 7:16pm the Mayor adjourned the meeting.  
At 7:23pm the Mayor resumed the meeting.

**CONFIDENTIAL ITEM C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

Ward : All  
 Category : Operational  
 Subject Index : City of Melville  
 Customer Index : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter  
 Previous Items : C18/5655 Chief Executive Officer Recruitment – Special Meeting of Council 12 November 2018.  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Llewellyn Rogers  
 Head of People and Culture

**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"/>	<b>Executive</b>	<b><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></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; 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 (e.g. 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 to note.</i>

**CONFIDENTIAL ITEM C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

- At the Special Meeting of Council held 12 November 2018, Mr M Tieleman was, by absolute majority decision, appointed as the CEO for the City of Melville.
- Mr Tieleman's contract is due to expire on 20 November 2023.
- Mr Tieleman, in accordance with his contract conditions has advised the Council of his wish to renew his contract for a further term.
- The Council is to consider Mr Tieleman's request and this report provides information on the options associated with this matter.

**BACKGROUND**

At the Special Meeting of Council held 12 November 2018, the Council resolved to appoint Mr Marten Tieleman as the Chief Executive Office (CEO) of the City of Melville for a 5-year term. The contract for this position was signed on 14 November 2018 and effective from 20 November 2018 with an expiry date of 20 November 2023

In accordance with the s5.41 of the *Local Government Act 1995*, the functions of the CEO are to:

- (a) *advise the council in relation to the functions of a local government under this Act and other written laws; and*
  - (b) *ensure that advice and information is available to the council so that informed decisions can be made; and*
  - (c) *cause council decisions to be implemented; and*
  - (d) *manage the day to day operations of the local government; and*
  - (e) *liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and*
  - (f) *speak on behalf of the local government if the mayor or president agrees; and*
  - (g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and*
  - (h) *ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (1) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as function to be performed by the CEO*

**DETAIL**

On 1 March 2023, the CEO in accordance with clause 2.2 (3) '*Extension of Term*' of his contract of employment advised the Mayor in writing of his wish to renew his employment contract which will expire on 20 November 2023. That is:

*As discussed with yourself and the Deputy Mayor and notified to the Governance Committee held on Monday 20 February 2023, I wish to renew my employment contract, which currently expires on 20 November 2023, to 30 September 2024. This email constitutes my formalised request to do so in accordance with clause 2.2 (3) of my Employment Contract.*

**CONFIDENTIAL ITEM C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

*The rationale behind this request is as follows:*

- *Working for the City of Melville continues to be on balance a positive, inspiring and fulfilling experience and I remain 100% committed to the City meeting its vision and demonstrating its Values*
- *I believe (supported by performance data) that I continue to make a positive difference in leading/enabling the corporation of the City of Melville to be a better organisation serving our community and working productively with them to achieve better Community outcomes across the quadruple bottom line*
- *There are a number of initiatives or projects which I have been involved in the planning of over a long period of time and would cherish the opportunity to continue to be involved in some of the milestones which will occur during this period*
- *The Executive Leadership team is somewhat depleted at the moment with the new Director Urban Planning not commencing until 1 May 2023 and recruitment for the Director Corporate Services position continuing*
- *In October 2023 the local government elections will take place and will include a Mayoral election following which we will need to undertake induction and elected member training*
- *The review of the Community Plan needs to commence in November 2023 followed by a comprehensive review of the Corporate Business Plan - or development of a new Council Plan if reform legislation is progressed and passed – this will take place in February through April 2024*
- *Following the new Council group concluding the review of the Plans, then the Council will have established a clear sense of direction and will be in a position to identify the skills, experience and interpersonal qualities that they wish to see in a CEO and structure the selection criteria for the position to recruit a person meeting those requirements – this could take place over May and June with a selection and appointment by the end of June and then have the new CEO in place by 30 September 2024*
- *It would be less disruptive to the City if the CEO recruitments took place in a non-election year to avoid the situation of having an outgoing Council appointing a new CEO just prior to what may be the election of a new Council who may wish to review the direction of the City.*

*I would therefore appreciate the opportunity to lead the organisation until 30 September 2024 and facilitate a smooth transition to a new CEO and am confident of leaving them an organisation that is functioning well at a high level of performance.*

*Over this period I will be placing even more emphasis on the need for the City administration to work together in a mutually respectful manner with our elected representatives, our community, our volunteers, our key stakeholders and our contractors so as to leverage our limited internal staffing resources to achieve better outcomes. I have a fundamental belief that when we effectively harness the knowledge, skills and experience of all these resources we can optimise Community outcomes. It does however require us to rebuild trust levels between Council, the Community and the administration and as CEO I need to remain vigilant with respect to the safety and health impacts on staff of unacceptable behaviours which have unfortunately featured in the not yet distant past. I am however committed to leading the administration team to doing all we can reasonably and practicably do to achieve mutually respectful, productive and healthy relationships with elected members.*

*As professionals in our respective fields we will provide the best information and advice we can to the Council and will be accountable for that. On the flip side we expect that Council will receive and pay due consideration to that advice and respectfully ask probing questions or seek further clarifications if unsure. We certainly however do not wish to debate the issues with elected members – that is for the Council Chamber.*

**CONFIDENTIAL ITEM C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

The Council Policy CP-117 Standards for CEO Recruitment, Performance and Termination was adopted in May 2021, following amendment to the *Local Government Act 1995*.

Clause 13 of the Policy provides:

*13. Recruitment to be undertaken on expiry of certain CEO contracts*

*(1) In this clause —*

**commencement day** means the day on which the Local Government (Administration) Amendment Regulations 2021 regulation 6 comes into operation.

*(2) This clause applies if —*

*(a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —*

*(i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and*

*(ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;*

*and*

*(b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.*

*(3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.*

*(4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.*

Clause 13 of the policy does not apply as Mr Tieleman has not held the position for 10 or more consecutive years and therefore is eligible for renewal without the recruitment and selection process as referred to in the policy.

The *Local Government Act 1995* (s5.39) requires that contracts for the CEO and Senior Employees cannot exceed 5 years, it can however be renewed and may be varied.

As per clause 11.2 '*Termination by the City of Melville at will*' of the CEO's current contract of employment, the City may terminate the CEO's employment at any time for any reason. If the City terminates the CEO's contract under this clause, it must pay the CEO the lesser of:

- an amount equal to 100% of the Remuneration Package; and
- the balance of Remuneration Package payable for the Term (including all other entitlements).

In relation to Mr Tieleman's request and the terms of his current contract of employment, the Council is required to consider the request and determine to either:

- Support the request to renew Mr Tieleman's CEO contract from 21 November 2023 to 30 September 2024; or,
- Reject Mr Tieleman's request to renew his CEO contract of employment from 21 November 2023 to 30 September 2024

**CONFIDENTIAL ITEM C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

Where the Council supports Mr Tieleman's request to renew his CEO contract, further clarity is sought as to whether the current terms of the contract of employment as CEO will remain, or if the Council wishes to vary these.

Where the Council rejects Mr Tieleman's request to renew his CEO contract, further clarity is sought as to whether his contract of employment as CEO will cease either on or prior to the current expiry date (20 November 2023). In addition, the Council is requested to consider what arrangements will be put in place to allow for a successful handover and transition.

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

No engagement with the City's community is required in regard to this matter.

**II. OTHER AGENCIES / CONSULTANTS**

No engagement with other agencies or consultants is required for this report.

**STATUTORY AND LEGAL IMPLICATIONS**

The Contract for the CEO is governed by the:

- *The Local Government Act 1995.*
- *The Local Government (Administration) Regulations 1996.*

**FINANCIAL IMPLICATIONS**

Where the City terminates the CEO's contract of employment prior to his expiry date:

- It must pay the CEO the balance of Remuneration Package (including all other entitlements) payable to the expiry term (20 November 2023) i.e. as per clause 11.2 '*Termination by the City of Melville at will*' of the CEO's current contract of employment.
- The City would incur additional replacement costs with the appointment of either a temporary (acting) or substantive CEO to 20 November 2023.

**POLICY IMPLICATIONS**

Council Policy CP-117 Standards for CEO Recruitment, Performance and Termination.

**CONFIDENTIAL ITEM C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

**CONCLUSION**

On 1 March 2023, Mr Tieleman (CEO) advised the Mayor in writing of his request to renew his contract of employment, which currently expires on 20 November 2023, to 30 September 2024.

In relation to Mr Tieleman’s request and the terms of his current contract of employment, the Council is required to determine its:

- Support to renew Mr Tieleman’s CEO contract from 21 November 2023 to 30 September 2024; and whether or not the existing contract terms and conditions are retained;

or

- Reject Mr Tieleman’s request to renew his CEO contract of employment from 21 November 2023 to 30 September 2024 and determine the date the contract will cease if different from the contract expiry date of 20 November 2023.

**OFFICER RECOMMENDATION (5967)**

**ABSOLUTE MAJORITY**

**That the Council:**

**Option A**

**Support to renew Mr Tieleman’s CEO contract from 21 November 2023 to 30 September 2024.**

**Option B**

**Reject Mr Tieleman’s request to renew his CEO contract of employment from 21 November 2023 to 30 September 2024.**

**Confirm that Mr Tieleman’s CEO contract of employment will cease on the current expiry date of 20 November 2023.**

**Option C**

**Reject Mr Tieleman’s request to renew his CEO contract of employment from 21 November 2023 to 30 September 2024.**

**Confirm that Mr Tieleman’s CEO contract of employment will cease prior to the current expiry date (20 November 2023) on a date to be confirmed.**

**Procedural Motion**

**COUNCIL RESOLUTION**

At 7:24pm Cr Fitzgerald moved, seconded Cr Mair –

**That the Council suspend clause 12.11 (1) of the *City of Melville Local Government (Meeting Procedures) Local Law 2022* to allow Elected Members to speak more than once on this matter.**

At 7:24pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (13/0)**

**CONFIDENTIAL ITEM C23/5967 – CEO REQUEST FOR CONTRACT RENEWAL (AMREC)**

At 8:32pm Cr Pazolli left the meeting and returned at 8:34pm  
At 8:33pm Mr Rogers returned to the meeting.  
At 8:33pm Ms Newman returned to the meeting.

**Procedural Motion**

**COUNCIL RESOLUTION**

At 8:34pm Cr Fitzgerald moved, seconded Cr Wheatland –

**That the Council reinstate clause 12.11 (1) of the City of Melville Local Government (Meeting Procedures) Local Law 2022.**

At 8:34pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (13/0)**

**COUNCIL RESOLUTION (5967)**

**ABSOLUTE MAJORITY**

At 8:35pm Cr Mair moved, seconded Cr Sandford –

**That the Council:**

- **Reject Mr Tieleman’s request to renew his CEO contract of employment from 21 November 2023 to 30 September 2024.**
- **Confirm that Mr Tieleman’s CEO contract of employment will cease on the current expiry date of 20 November 2023.**

At 8:36pm the Mayor declared the motion

**CARRIED BY ABSOLUTE MAJORITY (9/4)**

For	9	Mayor Gear, Cr Fitzgerald, Cr Sandford, Cr Barber, Cr Pazolli, Cr Mair, Cr Ross, Cr Edinger, Cr Spanbroek
Against	4	Cr Woodall, Cr Robins, Cr Wheatland, Cr Macphail

**Procedural Motion**

**COUNCIL RESOLUTION**

At 8:36pm Cr Mair moved, seconded Cr Fitzgerald –

**That the meeting comes out from behind closed doors.**

At 8:36pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (13/0)**

**12 MOTIONS WITH PREVIOUS NOTICE**

Nil.

**13 MOTIONS WITHOUT PREVIOUS NOTICE (approval by absolute majority)**

Nil.

**14 MATTERS FOR WHICH MEETING WAS CLOSED TO THE PUBLIC**

- Item C23/5967 CEO Request for Contract Renewal.

**15 DECISIONS MADE WHILE MEETING WAS CLOSED TO THE PUBLIC**

At 8.36pm the Mayor advised that the matters behind closed doors related to:

- Item C23/5967 CEO Request for Contract Renewal and that the Council has made a resolution by absolute majority decision and that decision is available in the minutes.

**16 CLOSURE**

There being no further business to discuss, the Mayor confirmed that Cr Spanbroek was still in attendance electronically and closed the meeting at 8:37pm.