



## **MINUTES**

### **CERTIFICATION OF CONFIRMATION OF COUNCIL MEETING MINUTES**

**16 April 2020**

I, Cr Jai Wilson, hereby certify that the minutes from the Special Council Meeting held on 16 April 2020 pages (3) to (12) were confirmed at a meeting of Council held on 21 May 2020.



**Signature**

Cr Jai Wilson  
**Person presiding at Meeting**



## **MINUTES**

# **Special Meeting of Council**

**16 April 2020**

## **SPECIAL MEETING OF COUNCIL**

### **MINUTES**

**16 April 2020**

**(REF: D2020/07346)**

A Special Meeting of Council was held electronically on **Thursday, 16 April 2020**. The meeting commenced at **6:03pm**.

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## 1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Chairman opened the meeting held electronically at 6:03pm and acknowledged the traditional custodians of the land.

Kaya Maaman, Kaya Yorga, Kaya Bridia  
Ngalak kaartitj windji ngalak nynininy  
Nagalak kaartitj nidja boodja baal Whadjuk Noongar Boodja ngalak nyininy  
Koorah, Nitja yeyi, Boordahwan

### Translation

Greetings everyone  
We all understand where we are meeting.  
We know that we meet on the lands of the Whadjuk Noongar people  
Always was, always will be.

## 2 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

The Chairman did a roll call with each Councillor and EMRC Officer in attendance, seeking confirmation that they are individually in a safe suitable place to attend the meeting held electronically.

### **Councillor Attendance**

Cr Jai Wilson ( <b>Chairman</b> )	EMRC Member	Town of Bassendean
Cr Doug Jeans ( <b>Deputy Chairman</b> )	EMRC Member	Shire of Mundaring
Cr Kathryn Hamilton	EMRC Member	Town of Bassendean
Cr Lorna Clarke	EMRC Member	City of Bayswater
Cr Giorgia Johnson	EMRC Member	City of Bayswater
Cr Janet Powell	EMRC Member	City of Belmont
Cr Steve Wolff	EMRC Member	City of Belmont
Cr Lesley Boyd	EMRC Member	City of Kalamunda
Cr Dylan O'Connor	EMRC Member	City of Kalamunda
Cr John Daw	EMRC Member	Shire of Mundaring
Cr Mel Congerton	EMRC Member	City of Swan
Cr Charlie Zannino	EMRC Member	City of Swan

### **Apologies**

Cr Hilary MacWilliam	EMRC Deputy Member	Town of Bassendean
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### **EMRC Officers**

Mr Marcus Geisler	Chief Executive Officer
Mr Hua Jer Liew	Chief Financial Officer
Mr Steve Fitzpatrick	Chief Project Officer
Mrs Wendy Harris	Chief Sustainability Officer
Mr Brad Lacey	Chief Operating Officer
Mr David Schmidt	Manager Information Services
Mr David Ameduri	Manager Financial Services
Miss Izabella Krzysko	Manager Procurement & Governance
Ms Theresa Eckstein	Executive Assistant to Chief Executive Officer
Ms Kathleen Highfield	Acting Personal Assistant to Chief Financial Officer (Minutes)



*Item 2 continued*

**Observer(s)**

Cr Filomena Piffaretti	EMRC Deputy Member	City of Bayswater
Cr Phil Marks	EMRC Deputy Member	City of Belmont
Cr Cameron Blair	EMRC Deputy Member	City of Kalamunda
Cr Amy Collins	EMRC Deputy Member	Shire of Mundaring
Cr Ian Johnson	EMRC Deputy Member	City of Swan
Mr Andrew Brien	Chief Executive Officer	City of Bayswater
Ms Rhonda Hardy	Chief Executive Officer	City of Kalamunda
Mr Jonathan Throssell	Chief Executive Officer	Shire of Mundaring
Mr Doug Pearson	Director Works and Infrastructure	City of Bayswater
Ms Melanie Reid	Director Infrastructure Services	City of Belmont
Mr Shane Purdy	Director Infrastructure Services	Shire of Mundaring
Mr Brice Campbell	Recycling & Waste Coordinator	Town of Bassendean

**Visitor(s)**

Nil

**3 DISCLOSURE OF INTERESTS**

Nil

**4 ANNOUNCEMENTS BY THE CHAIRMAN OR PERSON PRESIDING WITHOUT DISCUSSION**

Nil

**5 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**6 PUBLIC QUESTION TIME**

Nil

**7 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**8 PETITIONS, DEPUTATIONS AND PRESENTATIONS**

Nil

**9 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil



## **10 QUESTIONS BY MEMBERS WITHOUT NOTICE**

### **10.1 QUESTIONS FROM CR G. JOHNSON**

Question: Can an update be provided on the preparations of the FOGO Processing Facility?

Response: *The CEO provided an update regarding the interim FOGO Processing Facility at the Red Hill Waste Management Facility.*

## **11 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETINGS MAY BE CLOSED TO THE PUBLIC**

Nil

## **12 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING**

Nil

## **13 REPORTS OF EMPLOYEES**

Nil

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## **14 MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

### **14.1 NOTICE OF MOTION RECEIVED FROM CR JOHN DAW**

In accordance with Clause 4.18 of the *EMRC Standing Orders Local Law 2013*, Cr Daw gave notice of his intention to table the following motion for Councillors to consider at the Special Meeting of Council to be held on 16 April 2020:

#### **Motion**

*That the EMRC reduces to zero the secondary waste reserve charge applied to landfill tonnages from member Councils for the 2020/21 financial year to assist member Councils with their responses to the corona virus pandemic.*

#### **Rationale provided by Cr Daw**

The matter was previously put before Council at the Ordinary Council meeting on 5 December 2019. It was recommended that Council amend the secondary waste reserve charge rate to \$0/tonne on each tonne of member Council waste from 1 January 2020. At that time Council resolved to defer the motion, and the secondary waste charge of \$38.00/tonne (ex GST) on each tonne of member Council waste continued for 2019/2020.

In March 2020 a global pandemic had been announced by the World Health Organisation relating to COVID-19.

A response to the pandemic's impacts requires careful operational planning given the potential rapid evolution of the situation on the ground. One of the impacts to consider are the financial and business implications on each member council.

The reasons for suspending the secondary waste reserve charge at the time of the December 2019 Ordinary Council meeting were different to the current set of circumstances in dealing with a global pandemic.

While the world struggles to deal with a pandemic, the EMRC should consider assisting its member Councils and their respective ratepayers financially by suspending the secondary waste reserve charge for a period of 12 months from 1 July 2020 to 30 June 2021.

A suspension of the charge for FY2020/2021 will assist each member Council and have flow on benefits for the Region by member Councils providing essential services to their communities and to ease their financial burdens generally.

#### **Officer Comments**

The EMRC is continuing to progress all initiatives identified as part of the current and future strategic direction of the EMRC and is positive about the future of the EMRC and the Region's alignment with the WA State Waste Strategy. This is in line with the EMRC Council resolution to align with the State Waste Strategy and member Councils' unanimous endorsement of the FOGO Recovery Strategy.

The Secondary Waste Charge is an important funding source for projects and was established to accumulate and to make provision for secondary waste treatment technology in the future, such as the committed Resource Recovery Facility (RRF) project in East Rockingham, and the large-scale Food Organics and Garden Organics (FOGO) waste processing facility.

However, EMRC Officers recognise the immediate requirement to respond to the current global COVID-19 pandemic to reduce the financial and economic burdens on member Councils, their ratepayers and communities. Based on the forecast tonnages for 2020/2021, suspending the \$38/tonne will represent an estimated reduction of \$4.7m in Secondary Waste Charges throughout that period and an average of approximately \$32 to \$34 per household based on 2016 census number of multi-unit dwellings (MUDs) and single-unit dwellings (SUDs).

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#### *Item 14.1 continued*

EMRC Officers are supportive of the proposal to proceed with suspending the Secondary Charge for 2020/2021 to assist member Councils and their ratepayers.

The decision of Council in relation to this motion will be reflected in the draft 2020/2021 Annual Budget and the EMRC's Schedule of Fees and Charges expected to be tabled before the Audit Committee and Council at its June 2020 round of meetings.

#### **AMENDED MOTION(S)**

That Council:

1. Temporarily reduces to zero, the secondary waste reserve charge applied to landfill tonnages from member Councils for the 2020/2021 financial year to assist member Councils with their responses to the corona virus pandemic.
2. By absolute majority, in accordance with s6.16(1) of the *Local Government Act 1995*, adopts the Secondary Waste Charge rate of \$0.00/ tonne on each tonne of member Council waste for 2020/2021 and the Secondary Waste Charge is to be reinstated at \$38.00/tonne from 1 July 2021 until further consideration.

#### **NOTICE OF ALTERNATE MOTION RECEIVED FROM CR CONGERTON**

Prior to the meeting, Cr Congerton gave notice of his intention to move the following alternate motion at the Special Meeting of Council to be held on 16 April 2020 in accordance with Clause 9.1 of the *EMRC Standing Orders Local Law 2013*.

#### **Alternate Motion(s)**

*That Council:*

1. *Not adjust the secondary waste reserve charge applied to landfill tonnages from member Councils for the 2020/2021 financial year.*
2. *By absolute majority, the EMRC declare a dividend of \$5m to be funded by \$2.5m from Municipal Fund based on estimated 2019/2020 operating surpluses, and in accordance with s.6.11(2)(b) of the Local Government Act 1995, a distribution of \$2.5m from the Future Development Reserve.*
3. *The dividend is payable to each member Council on or before June 30 2020 based on the Councils shareholding as per the last audited accounts being 30 June 2019.*
4. *Confirms, in accordance with r.18(c) of the Local Government (Financial Management) Regulations 1996, that the EMRC is not required to give local public notice of a proposed change of use of money in a reserve account due the satisfaction of the following conditions:*
  - a. *a decision to change the use of the money is made while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;*
  - b. *The EMRC considers that the change of use is required to address a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;*
  - c. *The decision and the reasons for it are to be recorded in the minutes of the meeting at which the decision is made.*
5. *Note the reason for changing the original recommendation is to respond to the current global COVID-19 pandemic by providing financial and economic benefit to member Councils, their ratepayers and communities.*





*Item 14.1 continued*

**Rationale provided by Cr Congerton**

This amended motion is in response to the current global pandemic that had been announced in March 2020 by the World Health Organisation relating to COVID-19.

A response to the pandemic's impacts requires careful operational planning given the potential rapid evolution of the situation on the ground. One of the impacts to consider are the financial and business implications on each member Council and their viability.

While the world struggles to deal with a pandemic, the EMRC could work with its member Councils to assist them and their respective ratepayers financially. The EMRC could achieve this by paying a dividend to each member Council.

This initiative will assist each member Council and have flow on benefits for the Region by member Councils providing essential services to their communities while easing their financial burdens generally.

**NOTICE OF AMENDED MOTION RECEIVED FROM CR DAW**

Following receipt of Cr Congerton's alternate motion and prior to the meeting, Cr Daw gave notice of an amendment to his previously distributed motion to be considered at the Special Meeting of Council in accordance with Clause 9.1 of the *EMRC Standing Orders Local Law 2013*.

The amendments now include three additional items – 3, 4 and 5.

**AMENDED MOTION(S)**

That Council:

1. Temporarily reduces to zero, the secondary waste reserve charge applied to landfill tonnages from member Councils for the 2020/2021 financial year to assist member Councils with their responses to the corona virus pandemic.
2. By absolute majority, in accordance with s6.16(1) of the *Local Government Act 1995*, adopts the Secondary Waste Charge rate of \$0.00/ tonne on each tonne of member Council waste for 2020/2021 and the Secondary Waste Charge is to be reinstated at \$38.00/tonne from 1 July 2021 until further consideration.
3. By absolute majority, the EMRC declare a dividend of \$5m to be funded by \$2.5m from Municipal Fund based on estimated 2019/2020 operating surpluses, and in accordance with s.6.11(2)(b) of the *Local Government Act 1995*, a distribution of \$2.5m from the Future Development Reserve.
4. The dividend is payable to each member Council on or before June 30 2020 based on the Council's shareholding as per the last audited accounts being 30 June 2019.
5. Confirms, in accordance with r.18(c) of the *Local Government (Financial Management) Regulations 1996*, that the EMRC is not required to give local public notice of a proposed change of use of money in a reserve account due the satisfaction of the following conditions:
  - a. a decision to change the use of the money is made while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;
  - b. The EMRC considers that the change of use is required to address a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;
  - c. The decision and the reasons for it are to be recorded in the minutes of the meeting at which the decision is made.



*Item 14.1 continued*

The Chairman advised Councillors at the meeting that as Cr Daw's amended motion is the substantive motion, it will be dealt with first subject to a mover and seconder for the motion.

Cr Daw moved his motion and Cr Jeans seconded the motion.

Cr Daw spoke to the motion, articulating the rationale for the motion.

Cr Jeans did not speak to the motion as seconder but reserved his right as a Councillor to speak in support of the motion during debate.

Cr Hamilton spoke against the motion expressing concerns that deferring the secondary waste charge may impact on the strategic projects and initiatives Council has adopted for the benefit of the community.

Debate ensued, alternating between those for the motion and those against.

To close debate, Cr Daw was invited by the Chairman to exercise his right of reply as the mover of the motion.

The Chairman put the motion to the vote.

**AMENDED MOTION(S)**

THAT COUNCIL:

1. TEMPORARILY REDUCES TO ZERO, THE SECONDARY WASTE RESERVE CHARGE APPLIED TO LANDFILL TONNAGES FROM MEMBER COUNCILS FOR THE 2020/2021 FINANCIAL YEAR TO ASSIST MEMBER COUNCILS WITH THEIR RESPONSES TO THE CORONA VIRUS PANDEMIC.
2. BY ABSOLUTE MAJORITY, IN ACCORDANCE WITH S6.16(1) OF THE *LOCAL GOVERNMENT ACT 1995*, ADOPTS THE SECONDARY WASTE CHARGE RATE OF \$0.00/ TONNE ON EACH TONNE OF MEMBER COUNCIL WASTE FOR 2020/2021 AND THE SECONDARY WASTE CHARGE IS TO BE REINSTATED AT \$38.00/TONNE FROM 1 JULY 2021 UNTIL FURTHER CONSIDERATION.
3. BY ABSOLUTE MAJORITY, THE EMRC DECLARE A DIVIDEND OF \$5M TO BE FUNDED BY \$2.5M FROM MUNICIPAL FUND BASED ON ESTIMATED 2019/2020 OPERATING SURPLUSES, AND IN ACCORDANCE WITH S.6.11(2)(B) OF THE *LOCAL GOVERNMENT ACT 1995*, A DISTRIBUTION OF \$2.5M FROM THE FUTURE DEVELOPMENT RESERVE.
4. THE DIVIDEND IS PAYABLE TO EACH MEMBER COUNCIL ON OR BEFORE JUNE 30 2020 BASED ON THE COUNCIL'S SHAREHOLDING AS PER THE LAST AUDITED ACCOUNTS BEING 30 JUNE 2019.
5. CONFIRMS, IN ACCORDANCE WITH R.18(C) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*, THAT THE EMRC IS NOT REQUIRED TO GIVE LOCAL PUBLIC NOTICE OF A PROPOSED CHANGE OF USE OF MONEY IN A RESERVE ACCOUNT DUE THE SATISFACTION OF THE FOLLOWING CONDITIONS:
  - a. A DECISION TO CHANGE THE USE OF THE MONEY IS MADE WHILE THERE IS IN FORCE A STATE OF EMERGENCY DECLARATION APPLYING TO THE DISTRICT, OR PART OF THE DISTRICT, OF THE LOCAL GOVERNMENT;
  - b. THE EMRC CONSIDERS THAT THE CHANGE OF USE IS REQUIRED TO ADDRESS A NEED ARISING FROM THE HAZARD, OR FROM THE IMPACT OR CONSEQUENCES OF THE HAZARD, TO WHICH THE STATE OF EMERGENCY DECLARATION RELATES;
  - c. THE DECISION AND THE REASONS FOR IT ARE TO BE RECORDED IN THE MINUTES OF THE MEETING AT WHICH THE DECISION IS MADE.

**MOTION LOST 5/7**

***Crs Hamilton, Powell, Wolff, Boyd, O'Connor, Congerton, Zannino voted against***



*Item 14.1 continued*

Following the motion being lost, the Chairman put Cr Congerton's alternate motion up to Council for its consideration.

**ALTERNATE MOTION(S)**

That Council:

1. Not adjust the secondary waste reserve charge applied to landfill tonnages from member Councils for the 2020/2021 financial year.
2. By absolute majority, the EMRC declare a dividend of \$5m to be funded by \$2.5m from Municipal Fund based on estimated 2019/2020 operating surpluses, and in accordance with s.6.11(2)(b) of the *Local Government Act 1995*, a distribution of \$2.5m from the Future Development Reserve.
3. The dividend is payable to each member Council on or before June 30 2020 based on the Councils shareholding as per the last audited accounts being 30 June 2019.
4. Confirms, in accordance with r.18(c) of the *Local Government (Financial Management) Regulations 1996*, that the EMRC is not required to give local public notice of a proposed change of use of money in a reserve account due the satisfaction of the following conditions:
  - a. a decision to change the use of the money is made while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;
  - b. The EMRC considers that the change of use is required to address a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates;
  - c. The decision and the reasons for it are to be recorded in the minutes of the meeting at which the decision is made.
5. Note the reason for changing the original recommendation is to respond to the current global COVID-19 pandemic by providing financial and economic benefit to member Councils, their ratepayers and communities.

The Chairman asked for a mover and a seconder.

Cr Congerton moved the motion.

Cr Zannino seconded the motion.

The Chairman asked Cr Congerton whether he wishes to speak to the motion.

Cr Congerton declined the request as he highlighted that there was sufficient debate. Cr Congerton moved a procedural motion that the alternate motion be now put to a vote in accordance with clause 10.1(d) of the *EMRC Standing Orders Local Law 2013*.

Cr Zannino seconded the procedural motion.

**COUNCIL RESOLUTION(S)**

MOVED CR CONGERTON

SECONDED CR ZANNINO

THAT THE MOTION BE NOW PUT TO A VOTE.

**CARRIED UNANIMOUSLY**



*Item 14.1 continued*

The Chairman put the motion to the vote.

**COUNCIL RESOLUTION(S)**

MOVED CR CONGERTON

SECONDED CR ZANNINO

THAT COUNCIL:

1. NOT ADJUST THE SECONDARY WASTE RESERVE CHARGE APPLIED TO LANDFILL TONNAGES FROM MEMBER COUNCILS FOR THE 2020/2021 FINANCIAL YEAR.
2. BY ABSOLUTE MAJORITY, THE EMRC DECLARE A DIVIDEND OF \$5M TO BE FUNDED BY \$2.5M FROM MUNICIPAL FUND BASED ON ESTIMATED 2019/2020 OPERATING SURPLUSES, AND IN ACCORDANCE WITH S.6.11(2)(B) OF THE *LOCAL GOVERNMENT ACT 1995*, A DISTRIBUTION OF \$2.5M FROM THE FUTURE DEVELOPMENT RESERVE.
3. THE DIVIDEND IS PAYABLE TO EACH MEMBER COUNCIL ON OR BEFORE JUNE 30 2020 BASED ON THE COUNCILS SHAREHOLDING AS PER THE LAST AUDITED ACCOUNTS BEING 30 JUNE 2019.
4. CONFIRMS, IN ACCORDANCE WITH R.18(C) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*, THAT THE EMRC IS NOT REQUIRED TO GIVE LOCAL PUBLIC NOTICE OF A PROPOSED CHANGE OF USE OF MONEY IN A RESERVE ACCOUNT DUE THE SATISFACTION OF THE FOLLOWING CONDITIONS:
  - a. A DECISION TO CHANGE THE USE OF THE MONEY IS MADE WHILE THERE IS IN FORCE A STATE OF EMERGENCY DECLARATION APPLYING TO THE DISTRICT, OR PART OF THE DISTRICT, OF THE LOCAL GOVERNMENT;
  - b. THE EMRC CONSIDERS THAT THE CHANGE OF USE IS REQUIRED TO ADDRESS A NEED ARISING FROM THE HAZARD, OR FROM THE IMPACT OR CONSEQUENCES OF THE HAZARD, TO WHICH THE STATE OF EMERGENCY DECLARATION RELATES;
  - c. THE DECISION AND THE REASONS FOR IT ARE TO BE RECORDED IN THE MINUTES OF THE MEETING AT WHICH THE DECISION IS MADE.
5. NOTE THE REASON FOR CHANGING THE ORIGINAL RECOMMENDATION IS TO RESPOND TO THE CURRENT GLOBAL COVID-19 PANDEMIC BY PROVIDING FINANCIAL AND ECONOMIC BENEFIT TO MEMBER COUNCILS, THEIR RATEPAYERS AND COMMUNITIES.

**CARRIED UNANIMOUSLY**



**15 NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE CHAIRMAN OR PRESIDING MEMBER OR BY DECISION OF MEETING**

Nil

**16 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**

Nil

**17 FUTURE MEETINGS OF COUNCIL**

The next Ordinary meeting of Council is scheduled to be held on **Thursday, 21 May 2020 (if required)** electronically or at the EMRC Administration Office, 1<sup>st</sup> Floor, 226 Great Eastern Highway, Belmont WA 6104 commencing at 6:00pm.

**Future Meetings 2020**

Thursday	21	May (if required)	at	EMRC Administration Office
Thursday	18	June	at	EMRC Administration Office
Thursday	23	July (if required)	at	EMRC Administration Office
Thursday	20	August (if required)	at	EMRC Administration Office
Thursday	17	September	at	EMRC Administration Office
Thursday	22	October (if required)	at	EMRC Administration Office
Thursday	3	December	at	EMRC Administration Office

**18 DECLARATION OF CLOSURE OF MEETING**

There being no further business, the meeting was closed at 7.15pm.