



MINUTES

CERTIFICATION OF CONFIRMATION OF SPECIAL COUNCIL MEETING MINUTES

25 February 2021

I, Cr Jai Wilson, hereby certify that the minutes from the Special Council Meeting held on 8 February 2021 pages (1) to (8) were confirmed at a meeting of Council held on 25 February 2021.



Signature

Cr Jai Wilson
Person presiding at Meeting

SPECIAL MEETING OF COUNCIL

MINUTES

(REF: D2021/01709)

A Special Meeting of Council was held at the EMRC Administration Office, 1st Floor, 226 Great Eastern Highway, ASCOT WA 6104 on **Monday 8 February 2021**. The meeting commenced at **6:01pm**.

TABLE OF CONTENTS

| | | |
|----|---|---|
| 1 | DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS | 3 |
| 2 | ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE (PREVIOUSLY APPROVED) | 3 |
| 3 | DISCLOSURE OF INTERESTS | 4 |
| 4 | ANNOUNCEMENTS BY THE CHAIRMAN OR PRESIDING MEMBER WITHOUT DISCUSSION | 4 |
| 5 | RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE | 4 |
| 6 | PUBLIC QUESTION TIME | 4 |
| 7 | APPLICATIONS FOR LEAVE OF ABSENCE | 4 |
| 8 | PETITIONS, DEPUTATIONS AND PRESENTATIONS | 4 |
| 9 | QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN | 4 |
| 10 | QUESTIONS BY MEMBERS WITHOUT NOTICE | 4 |
| 11 | ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETINGS MAY BE CLOSED TO THE PUBLIC | 5 |
| 12 | BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING | 5 |
| 13 | REPORTS OF EMPLOYEES | 5 |
| 14 | MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN | 5 |
| 15 | NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE CHAIRMAN OR PRESIDING MEMBER OR BY DECISION OF MEETING | 5 |
| 16 | CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC | 5 |
| | 16.1 <i>SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]</i> | |
| 17 | FUTURE MEETINGS OF COUNCIL | 8 |
| 18 | DECLARATION OF CLOSURE OF MEETING | 8 |



1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

1.1 ACKNOWLEDGEMENT OF COUNTRY

The Chairman opened the meeting at 6.01pm and welcomed visitors.

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)

Councillor Attendance

| | | |
|--|--------------------|--------------------|
| Cr Jai Wilson (Chairman) | EMRC Member | Town of Bassendean |
| Cr Doug Jeans (Deputy Chairman) | EMRC Member | Shire of Mundaring |
| Cr Kathryn Hamilton | EMRC Member | Town of Bassendean |
| Cr Filomena Piffaretti (Deputising for Cr Clarke) | EMRC Deputy Member | City of Bayswater |
| Cr Giorgia Johnson | EMRC Member | City of Bayswater |
| 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 Ian Johnson (Deputising for Cr Zannino) | EMRC Deputy Member | City of Swan |

APOLOGIES

| | | |
|--------------------|--------------------|-------------------|
| Cr Lorna Clarke | EMRC Member | City of Bayswater |
| Cr Janet Powell | EMRC Member | City of Belmont |
| Cr Phil Marks | EMRC Deputy Member | City of Belmont |
| Cr Charlie Zannino | EMRC Member | City of Swan |

EMRC Officers

| | |
|-------------------|---|
| Mr Marcus Geisler | Chief Executive Officer |
| Mr Hua Jer Liew | Chief Financial Officer |
| Mrs Lee Loughnan | Personal Assistant to Chief Financial Officer (Minutes) |

EMRC Observers

| | |
|---------------------|--|
| Mr David Ameduri | Manager Financial Services |
| Ms Theresa Eckstein | Executive Assistant to the Chief Executive Officer |

Observer(s)

| | | |
|-----------------|-------------------------|--------------------|
| Cr Amy Collins | EMRC Deputy Member | Shire of Mundaring |
| Mr Doug Pearson | Director Major Projects | City of Bayswater |



Item 2 continued

Visitor(s)

Mr Dan Dragovic

Partner

Herbert Smith Freehills

Mr Stewart McWilliam

Senior Associate

Herbert Smith Freehills

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

Cr Congerton enquired as to when the Council will be given time to review the EMRC Establishment Agreement.

The CEO advised that the strategic review report will be available in April/May 2021. An EMRC Strategic Review Workshop is scheduled on 19 February 2021 and this will give a clear path forward. The EMRC Establishment agreement will be reviewed in May/June 2021 to ensure it meets the requirement to support the future direction of the EMRC.

Cr Johnson queried why Council did not meet online given the current COVID-19 situation.

The Chairman advised that Council met in accordance with government health advice and accordingly it was possible to meet in person tonight. The Chairman thanked Councillors for attending in person and said that everything has been done tonight to ensure their safety. The Chairman took on notice the possibility of holding online Council meetings in the future, depending on whether circumstances change.



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

NOTE: Section 5.23(2) of the *Local Government Act 1995*, details a number of matters upon which Council may discuss and make decisions without members of the public being present. These matters include: matters affecting employees; personal affairs of any person; contractual matters; legal advice; commercial-in-confidence matters; security matters; among others.

The following report items are covered in Section 16 of this agenda:

11.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]

12 BUSINESS NOT DEALT WITH FROM A PREVIOUS MEETING

Nil

13. REPORTS OF EMPLOYEES

Nil

14 MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

In accordance with *EMRC Standing Orders Local Law 2013* Clause 4.1(2), no business is to be transacted at a special meeting of Council other than that given in the notice as the purpose of the meeting.

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

In accordance with *EMRC Standing Orders Local Law 2013* Clause 4.1(2), no business is to be transacted at a special meeting of Council other than that given in the notice as the purpose of the meeting.

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

RECOMMENDATION (Closing meeting to the public)

That with the exception of, the meeting be closed to members of the public in accordance with Section 5.23(2) of the *Local Government Act 1995* for the purpose of dealing with matters of a confidential nature.

COUNCIL RESOLUTION

MOVED CR HAMILTON

SECONDED CR JEANS

THAT WITH THE EXCEPTION OF THE CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL OFFICER, MANAGER FINANCIAL SERVICES, PARTNER OF HERBERT SMITH FREEHILLS, SENIOR ASSOCIATE OF HERBERT SMITH FREEHILLS, EXECUTIVE ASSISTANT TO THE CHIEF EXECUTIVE OFFICER AND PERSONAL ASSISTANT TO THE CHIEF FINANCIAL OFFICER THE MEETING BE CLOSED TO MEMBERS OF THE PUBLIC IN ACCORDANCE WITH SECTION 5.23 (2) OF THE *LOCAL GOVERNMENT ACT 1995* FOR THE PURPOSE OF DEALING WITH MATTERS OF A CONFIDENTIAL NATURE.

CARRIED UNANIMOUSLY



Item 16 continued

The doors of the meeting were closed at 6:10pm.

COUNCIL RESOLUTION

MOVED CR JEANS

SECONDED CR HAMILTON

THAT WITH THE EXCEPTION OF COUNCILLORS, DEPUTY COUNCILLORS, THE PRESENT EMRC OFFICERS AND EMRC LEGAL ADVISORS, THE MEETING BE CLOSED TO MEMBERS OF THE PUBLIC IN ACCORDANCE WITH SECTION 5.23 (2) OF THE *LOCAL GOVERNMENT ACT 1995*.

MOTION CARRIED 6/4

For: Crs I Johnson, Congerton, Jeans, Daw, Hamilton, Wilson
Against: Crs Piffaretti, G Johnson, Boyd, O'Connor

The Director Major Projects (City of Bayswater) departed the Council Chambers at 6.11pm.

The Chief Executive Officer, Chief Financial Officer, Manager Financial Services, Partner of Herbert Smith Freehills, Senior Associate of Herbert Smith Freehills, Executive Assistant to the Chief Executive Officer and Personal Assistant to the Chief Financial Officer remained in Council Chambers.

16.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)*]

REFERENCE: D2021/01716

This item is recommended to be confidential because it contains matters of a legal advice nature.

See Confidential Item circulated with the Agenda under Separate Cover.

RECOMMENDATION [Meeting re-opened to the public]

That the meeting be re-opened, the members of the public be invited to return to the meeting and the recommendations passed behind closed doors be recorded.

COUNCIL RESOLUTION

MOVED CR HAMILTON

SECONDED CR JEANS

THAT THE MEETING BE RE-OPENED, THE MEMBERS OF THE PUBLIC BE INVITED TO RETURN TO THE MEETING AND THE RECOMMENDATIONS PASSED BEHIND CLOSED DOORS BE RECORDED.

CARRIED UNANIMOUSLY

The doors were reopened at 7.11 pm and members of the public returned to the meeting.



Item 16 continued

Recording of the resolutions passed behind closed doors namely:

16.1 SEEKING INSTRUCTIONS REGARDING LEGAL MATTER [CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 s.5.23(2)(d)]

REFERENCE: D2021/01716

COUNCIL RESOLUTION(S)

MOVED CR CONGERTON

SECONDED CR O'CONNOR

THAT

1. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S5.8 OF THE *LOCAL GOVERNMENT ACT 1995* ESTABLISHES A LEGAL COMMITTEE TO UNDERTAKE ACTIONS TO ADDRESS ANY SUCH LEGAL MATTERS ARISING OUT OF THE ESTABLISHMENT AGREEMENT AND BE DISBANDED AT THE NEXT LOCAL GOVERNMENT ELECTIONS IN OCTOBER 2021.
2. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S5.10 OF THE *LOCAL GOVERNMENT ACT 1995* APPOINTS THE FOLLOWING COUNCILLORS TO THE LEGAL COMMITTEE:

| <u>PARTICIPANT LOCAL GOVERNMENT</u> | <u>COUNCILLOR MEMBER</u> | <u>DEPUTY MEMBER</u> | <u>SECOND DEPUTY MEMBER</u> |
|-------------------------------------|--------------------------|----------------------|-----------------------------|
| TOWN OF BASSENDEAN | CR WILSON | CR HAMILTON | CR MACWILLIAM |
| CITY OF BAYSWATER | CR CLARK | CR G JOHNSON | CR PIFFARETTI |
| CITY OF KALAMUNDA | CR O'CONNOR | CR BOYD | CR BLAIR |
| SHIRE OF MUNDARING | CR JEANS | CR DAW | CR COLLINS |
| CITY OF SWAN | CR CONGERTON | CR ZANNINO | CR I JOHNSON |

3. COUNCIL BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S5.16 OF THE *LOCAL GOVERNMENT ACT 1995* DELEGATES TO THE LEGAL COMMITTEE THE POWER TO UNDERTAKE ACTIONS IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT.
4. NOTES THE RATIONALE FOR THE MOTION IS TO ENABLE THE EMRC COUNCIL TO UNDERTAKE ACTIONS IN RESPONSE TO THE LEGAL MATTER AS OUTLINED WITHIN THE CONFIDENTIAL REPORT THROUGH THE NEWLY ESTABLISHED LEGAL COMMITTEE.
5. THE REPORT AND ATTACHMENTS REMAIN CONFIDENTIAL AND BE CERTIFIED BY THE CHAIRMAN AND THE CEO.

CARRIED UNANIMOUSLY



17 FUTURE MEETINGS OF COUNCIL

The next Ordinary meeting of Council is scheduled to be on **Thursday, 25 February 2021** electronically or at the EMRC Administration Office, 1st Floor, 226 Great Eastern Highway, Ascot WA 6104 commencing at 6:00pm.

Future Meetings 2021

| | | | | | |
|----------|----|-----------|---------------|----|----------------------------|
| Thursday | 25 | February | | at | EMRC Administration Office |
| Thursday | 25 | March | | at | EMRC Administration Office |
| Thursday | 22 | April | (if required) | at | EMRC Administration Office |
| Thursday | 27 | May | (If required) | at | EMRC Administration Office |
| Thursday | 24 | June | | at | EMRC Administration Office |
| Thursday | 22 | July | (if required) | at | EMRC Administration Office |
| Thursday | 26 | August | (if required) | at | EMRC Administration Office |
| Thursday | 23 | September | (if required) | at | EMRC Administration Office |
| Thursday | 25 | November | (if required) | at | EMRC Administration Office |

18 DECLARATION OF CLOSURE OF MEETING

There being no further business, the meeting closed at 7:11 pm.