

16.2: MOTION BY COUNCILLOR BOSTOCK-STAFFING ISSUES

ITEM 16.2: MOTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Item 16.2: Motion by Councillor Bostock, be ACCEPTED as an urgent item.

ITEM 16.2: MOTION BY COUNCILLOR BOSTOCK

VOTING REQUIREMENT: ABSOLUTE MAJORITY

1. THAT as the employer of the CEO and hence the defacto employer of all staff, Council APPOINTS, as a matter of urgency, a specialist employment lawyer to advise on our statutory obligations and responsibilities.
2. In light of recent communications from the CEO, in which all Councillors were informed of the unsustainable work load being expected of senior staff, Council conducts a series of meetings with staff, in order to ascertain the extent of the difficulties and how they can best be alleviated.

Reason:

Under the provisions of the *Western Australian Occupational Safety and Health Act 1985*, employers have strict duties to ensure the provision of a safe working environment. Failure to do so can lead to Draconian penalties, including a fine of \$24,000 and up to two years imprisonment, so that councillors need to be made fully aware of their responsibilities and to what extent they will be personally liable in the event of serious work related incidents.

Failure of an employer to take action, having been made aware of a potential health issue, is a particularly serious offence under the Act and it is imperative that Council immediately addresses the concerns raised by our employees.

Officer's Comment (Chief Executive Officer):

The CEO and the Executive Directors, have for some time now, been advising Council Members of the unsustainable and excessive workloads some are bearing. The Executive Management Team has clearly brought this to the attention of Council Members during Audit and Finance Committee meetings, and Council budget preparation workshops.

The City has suffered from the legacy of poor operational processes some of which have been absent for several years. The city has now employed a well qualified HR manager with the intent of addressing the lack of HR operational policies and processes. However, HR is only one component of effective organisational operations. For an organisation to function effectively it needs strong operational processes across a range of functions including:

- Information and communications technology;
- Knowledge (including records) management;
- Project management; and
- Business analysis

The City is slowly building capacity in these areas (as advised to Council Members by the Executive). However, this will take time. If Council wishes to expediate that capacity building then it will need to commit significantly more resources (including funding) to such capacity building.

The Executive would welcome the appointment of an experience employment lawyer to advise the City and Council on “all statutory obligations and responsibilities”. However:

- Compliance with legislation is much wider than mere human resource (HR) obligations, although the compliance of all legislation has HR impacts regarding staffing levels and implementation.
- Such advice will be expensive and there is no budget presently allocated for that activity. It is not unreasonable to expect that such legal advice could cost several tens of thousands dollars. Council has also not anticipated that activity in the 2012-13 budget preparation. If Council wishes to pursue such activity, it would be wise for the City to firstly obtain a quote from legal firms regarding the scope of work Council seeks, and then consider how Council intends to fund such activity.

Further, given the terms of the *Local Government Act 1995* and its Regulations, Council needs to be aware of those functions it is not empowered to undertake. The CEO understands that advice from WALGA was recently provided to some Council Members (those that attended a meeting on 7 May 2012) in that regard. Accordingly, Council needs to carefully consider whether it has the power to:

- Appoint a lawyer, as recommended by Councillor Bostock;
- Conduct staff meetings, as recommended by Councillor Bostock.