



MINUTES

SPECIAL MEETING OF COUNCIL

Held on
Thursday 28 June 2012
6.00pm
City of Albany Council Chambers

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1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting open at 6.00pm.

ITEM 1.0: RESOLUTION

MOVED: COUNCILLOR DOWLING

SECONDED: COUNCILLOR GREGSON

**THAT Council SUSPEND Standing Order clause 3.1 to allow recording of proceedings.
CARRIED 11-0**

2.0 OPENING PRAYER

The Mayor read the opening prayer.

“Heavenly Father, we thank you for the beauty and peace of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”

3.0 PUBLIC QUESTION AND STATEMENT TIME

Council’s Standing Orders Local Laws provide that each Ordinary Meeting of the Council shall make available a total allowance of 30 minutes, which may be extended at the discretion of Council, for residents in attendance in the public gallery to address clear and concise questions to His Worship the Mayor on matters relating to the operation and concerns of the municipality.

Such questions should be submitted to the Chief Executive Officer, **in writing, no later than 10.00am** on the last working day preceding the meeting (the Chief Executive Officer shall make copies of such questions available to Members) but questions may be submitted without notice.

Each person asking questions or making comments at the Open Forum will be **LIMITED** to a time period of **4 MINUTES** to allow all those wishing to comment an opportunity to do so.

[6:02:04 PM](#) **Ms Jill Bostock, Little Grove**

Ms Bostock’s tabled address is detailed at Appendix A.

[6:06:05 PM](#) **Mr Mervyn Leavesley, Kalgan**

Mr Leavesley’s tabled address is detailed at Appendix A.

[6:11:21 PM](#) **Mr Don Phillips, Frenchman Bay Road**

Summary of key points:

- Called for an enquiry, not for Council to be dismissed
- Community needs to know what has been going on within the City

[6:12:51 PM](#) **Mr John Wauters, Albany**

Summary of key points:

- Council need to spend the correct money and get a professional CEO to give suitable guidance to City staff

6:14:10 PM Mr Peter Eades, Redmond

Summary of key points:

- Wanted an explanation from Council regarding the dismissal of the CEO
- Referred to the previous dismissal of former CEO Mr Paul Richards, and wanted Council to explain why they were going down the same path once more

6:15:25 PM Mr Ross Blackburn, Yakamia

Summary of key points:

- Why did Council award a pay rise to the CEO at the June Ordinary Council Meeting.

Mayor Wellington responded that the pay rise awarded to the CEO was in line with her current employment contract.

6:16:08 PM there being no further speakers, the Mayor declared the Public Question and Statement Time closed.

4.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Mayor

D Wellington

Councillors:

| | |
|---------------------|-----------|
| Breaksea Ward | R Hammond |
| Frederickstown Ward | C Dowling |
| Frederickstown Ward | G Stocks |
| West Ward | J Gregson |
| West Ward | D Dufty |
| Kalgan Ward | Y Attwell |
| Kalgan Ward | C Holden |
| Vancouver Ward | D Bostock |
| Vancouver Ward | S Bowles |
| Yakamia Ward | R Sutton |

Staff:

| | |
|---------------------------------------|--------------|
| Executive Director Community Services | L Hill |
| Executive Director Works and Services | S Grimmer |
| Executive Director Corporate Services | G Adams |
| Minutes | J Williamson |

Public Gallery and Media:

Four members of the media and approximately one hundred members of the public were in attendance.

Apologies/Leave of Absence:

| | |
|--|-----------|
| Yakamia Ward | A Hortin |
| Breaksea Ward | V Calleja |
| Chief Executive Officer | F James |
| Executive Director Planning and Development Services | D Putland |

5.0 DECLARATION OF INTEREST

[Elected members of Council and staff are asked to use the forms prepared for the purpose, aiding the proceedings of the meeting by notifying the presiding member prior to the conduct of the meeting]

| Name | Item Number | Nature of Interest |
|------|-------------|--------------------|
| Nil | | |

ITEM 6.1: RESOLUTION

**MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR HAMMOND**

THAT the meeting go behind closed doors.

CARRIED 10-1

Record of Vote

Against the Motion: Councillor Bostock

ITEM 6.1: RESOLUTION

**MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR ATTWELL**

THAT Standing Order 5.7-Order of Call in Debate, be SUSPENDED to allow discussion.

CARRIED 11-0

ITEM 6.1: EMPLOYMENT CONTRACT OF THE CHIEF EXECUTIVE OFFICER OF THE CITY OF ALBANY

ITEM 6.1: RESOLUTION

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR SUTTON**

THAT Standing Order 5.7-Order of Call in Debate, be RESUMED.

CARRIED 11-0

ITEM 6.1: RESOLUTION

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GREGSON**

THAT the meeting come out from behind closed doors.

CARRIED 11-0

Members of the public and media re entered the Chamber.

ITEM 6.1: RESOLUTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR HAMMOND**

THAT:

- 1. Council hereby elects to accept the repudiation of the contract of employment between the City of Albany and Ms Faileen James dated 7 February 2011 (Employment Contract) based upon the fundamental and serious breach of the Employment Contract by Ms James in her conduct when participating in a radio interview on ABC Radio on 27 June 2012;**
- 2. Ms James to be informed forthwith in writing of the decision of the City of Albany to accept the repudiation of the Employment Contract and that the City of Albany considers the Employment Contract and the employment relationship between her and the City of Albany to now both be terminated with immediate effect;**
- 3. Executive Director Community Services, Ms Linda Hill, be APPOINTED as Acting Chief Executive Officer; and**
- 4. Executive Director Corporate Services, Mr Garry Adams, be APPOINTED as liaison between the City of Albany and Ms James regarding her employment status.**

**CARRIED 10-1
ABSOLUTE MAJORITY**

Record of Vote

Against the Motion: Councillor Bostock

7.0 CLOSURE OF MEETING

ITEM 7.1: RESOLUTION

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR DOWLING

THAT Standing Order 3.1 be RESUMED to stop recording of proceedings.

CARRIED 11-0

[6:43:49 PM](#) There being no further business the Presiding Member declared the meeting closed.

(Unconfirmed Minutes)

Dennis W Wellington
MAYOR

TABLED ADDRESS BY MS JILL BOSTOCK

Special Council Meeting 28 June 2012

Meeting called in response to Faileen James public announcement that she is parting company with the City of Albany.

Mayor and Councillors I thank you for the opportunity to speak. It saddens but does not surprise me that this City is faced with another crisis. Your ongoing difficulties are the inevitable consequence of all that has gone before. The problems are not a result of an isolated incident but a combination of factors that individually might have been managed but have been overwhelming in their entirety. These problems have served to highlight fundamental flaws and deficiencies in all levels of Government in WA and I believe the people of Albany have been let down at every level. It is the failure of proper accountability, proper checks and balances, proper support and back up that has allowed the situation to deteriorate to such damaging proportions. Whilst there have been failures of Council, the City's CEO, the Department of Local Government and other regulatory authorities are also culpable.

An organisation will flounder when unethical behaviour is ignored, when secrecy and protection of the establishment takes precedence over truth and honour. It is not possible to build on such foundations; difficulties will compound and the situation inexorably deteriorates.

The enemies of good governance are arrogance, complacency and an inability to self examine, to acknowledge mistakes and learn from them. It has been said before "mistakes are the inevitable consequence of human endeavour; it is what we do with them that matters." It was for this reason I felt compelled to address you this evening.

This crisis is not to be feared. It is an opportunity for this Council to turn things around, to do the right thing and set the City on the difficult but honourable road to recovery. This crisis is almost identical to that involving our last CEO Paul Richards, Councillors DO NOT MAKE THE SAME MISTAKE AGAIN.

I implore you to take this matter slowly and guard against any precipitous decisions.

Do not be influenced by those arguing for commercial expediency, you are not a commercial enterprise; public servants have much greater responsibilities.

It is of the utmost importance that all Councillors read the Legal Advice, from Minter Ellison on 6 April 2010; it is clear in its delivery, detailing the appropriate action to ensure the best interests of the community and is highly pertinent to the case before you this evening.

Follow that advice, ensure you have all the facts, do not give way to false claims or pressure from others and listen to your own moral compass. Do what is right, manage this crisis to protect the City and set it firmly in a new direction of honest, open accountable leadership that will earn the respect of the community.

Thank you, may I table this address.

Jill Bostock

TABLED ADDRESS BY MR MERVYN LEAVESLEY

Good evening Mayor and Councillors

My address tonight is entirely my own opinion.

At the outset I wish to state that I have great sympathy for the new Councillors I know what a steep learning curve it is.

However by any measure Council you have failed.

You have failed the residents - Council speaks with its decisions. Time and again you have made decisions and then almost as an afterthought put the issue out for public consultation. I speak of third party right of appeal, trading hours and your meeting rules or more commonly known as standing orders. Your new standing orders are a recipe for executive rule and seek to isolate council from public scrutiny.

You have also failed residents by not properly monitoring the delivery of last year's budget which is evidenced by the amount of financial variances. I have searched the strategic plan to see where it says that the financial welfare of the legal profession of Western Australia is a responsibility of the City of Albany but I can't find it. But given the amount you have spent on legal fees this year it must be there somewhere.

You have failed yourselves, staff and residents by revoking policies without replacement and delegating important oversight functions of council to the CEO. The consequences of which have become evident to many of you, but too late.

Council only has one employee - the CEO. It is clear that the situation we now face did not happen overnight. It has been plainly evident for many many months that there were at least causes for concern. But it would seem, if what we hear is true, that you have manifestly failed to even meet the terms of the contract with the CEO let alone protect the interests of ratepayers by operating the standard employment practice of performance management.

For the two years that I was on Council I saw no evidence of Council acting as a proper governance body. Nothing I have seen to date persuades me that anything has changed since.

Council has been driven by hidden agendas and political imperatives rather than due process.

Having said that I believe we have all collectively failed and we must all accept some responsibility.

Ultimately however the responsibility for where this City finds itself today is Minister Castrilli's.

Two years ago our Member of Parliament called for an enquiry into the City. Two years ago a meeting of electors also called for an enquiry. Two years ago a consultant hired by council at great expense under the instruction of the Minister I might add, also called for an enquiry and two years ago this council by an absolute majority endorsed the resolution of the electors meeting and called for an enquiry.

As we all know to our cost the Minister refused.

Minister Castrilli's has let our community down badly resulting in the community's almost total loss of confidence in the function of our local government. I have no confidence that the Minister will even act now. He seems incapable of making any decisions.

The City of Albany is not only a level of government but also the biggest enterprise in town. It is only with community confidence in the open, accountable and effective running of the City's operations that we can hope to prosper.

Mervyn Leavesley