

Shire of Perenjori

MINUTES

Special Council Meeting

Held in the Shire of Perenjori Council Chambers, Fowler Street, Perenjori on 24th April 2019,
commenced at 4.38 pm.

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19041.1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

Cr L Butler declared the meeting open at 4.38 pm.

19041.2 OPENING PRAYER

Cr L Butler led the opening prayer.

19041.3 RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

Cr L Butler – Presiding Member

Cr R White

Cr L Smith

Cr J Cunningham

Cr J Hirsch

Cr G Reid

Cr K Pohl

Cr L Hepworth

Paul Bawden – CEO

Bianca Plug – EA

Apologies;

Cr P Waterhouse

19041.4 NOTATIONS OF INTEREST

Financial Interest – Local Government Act s 5.60A

Proximity Interest – Local Government Act s 5.60B

Interest Affecting Impartiality – Reg 11 Local Government Act (Rules of Conduct) Regulation 2007

Indirect Financial – Local Government Act s 5.61

Cr L Hepworth, Cr K Pohl, Cr G Reid, Cr R White and Cr J Hirsch declared interests in item 19043.1.1.

19042 SPECIAL BUSINESS**19043 MATTERS BEHIND CLOSED DOORS**

In accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

- a) A matter affecting an employee or employees*
- b) The personal affairs of any person;*
- c) A matter that if disclosed, would reveal –*
 - i. A trade secret; or*
 - ii. Information that has a commercial value to a person; or*
 - iii. Information about the business, professional, commercial or financial affairs of a person*

Officer Recommendation – Item 19043.1**Moved: Cr L Smith****Seconded: Cr J Cunningham**

In accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for item 19043.1.1 as the following sub-sections apply:

- a) A matter affecting an employee or employees**

Carried: 5/3

Cr L Hepworth, Cr G Reid and Cr J Hirsch declared interests affecting impartiality in item 19043.1.1 due to being friends and/or knowing the employee.

Cr K Pohl declared an interest affecting Impartiality, Financial, Proximity and Indirect Financial interest in item 19043.1.1 due meeting the employee at the Perenjori Hotel.

Cr R White declared an interest affecting impartiality and proximity in item 19043.1.1 due to knowing the employee as a friend for over 5 years.

All Councillors remained in the room and participated in the voting of the item.

19043.1.1 CONFIDENTIAL ITEM - EMPLOYEE MATTER

APPLICANT:	NIL
FILE:	NIL
DISCLOSURE OF INTEREST:	NIL
AUTHOR:	PAUL BAWDEN - CEO
RESPONSIBLE OFFICER:	PAUL BAWDEN - CEO
REPORT DATE:	24TH APRIL 2019
ATTACHMENTS:	NIL

Cr L Smith asked that Cr R White and Cr K Pohl's comments be recorded in the minutes.

Cr J Hirsch asked that Cr L Smith's comments be recorded in the minutes.

Cr R White – Can we deal with the motion please.

Cr R White – It has been seconded.

Cr R White – No, we have just had someone second it.

The presiding member Cr L Butler declared the motion to be ultra-virus and was not prepared to put the item. Cr L Butler proposed legal advice however this was not supported.

Cr R White – We have already brought point of order to be seconded. The motion needs to be put.

Council Motion – Item 19043.1.1

Moved: Cr J Hirsch

Seconded: Cr K Pohl

Carried: 5/3

- 1. Council directs the CEO to pay all unpaid wages based on 41.5 Hr week, to Mr Ivan Wells since his formal wages ceased to be paid to the present, immediately and forthwith. This does not absolve the council of further payments that the SOPJ could be deemed responsible for in the future but could be deducted from payments agreed in future settlements. Nor does this payment indicate the termination of employment of Mr Ivan Wells.**

Carried: 5/3

Cr K Pohl voted for the item on the basis that it is fair. Cr J Hirsch, Cr R White, Cr G Reid and Cr L Hepworth voted for the item.

Cr L Butler, Cr L Smith and Cr J Cunningham voted against the item on the basis that it is unlawful and the motion is ultra-vires.

- 2. Council directs the CEO to advise LGIS that the Shire of Perenjori admits liability inadvertently resulting from several poor decisions (identified and reported by a temporary CEO) and the subsequent mismanagement of processes that ultimately led to the physical, emotional and reputational damage to Mr Ivan Wells that resulted in his workers compensation claim. The Shire expects LGIS to resolve Mr Wells' claim forthwith on this basis.**

Carried: 5/3

Cr J Hirsch, Cr R White, Cr G Reid, Cr K Pohl and Cr L Hepworth voted for the item.

Cr L Butler, Cr L Smith and Cr J Cunningham voted against the item on the basis that it is unlawful and the motion is ultra-vires.

- 3. Council asks for a budget allowance of \$350,000 for 2020 to cover any costs not covered by LGIS that the Shire of Perenjori may be deemed liable for by law or at settlement of the case of Mr Ivan Wells.**

Carried: 5/3

Cr J Hirsch, Cr R White, Cr G Reid, Cr K Pohl and Cr L Hepworth voted for the item.

Cr L Butler, Cr L Smith and Cr J Cunningham voted against the item on the basis that it is unlawful and the motion is ultra-vires.

Cr L Smith asked that it be noted in the minutes that as stated by the representative of McLeod's Barristers and Solicitors Council is unable to direct CEO.

The above motions passed. However, resolutions 1 and 2 cannot be acted upon as they are ultra-virus.

Officer Recommendation– Item 19043.1.2

Moved: Cr J Hirsch

Seconded: Cr K Pohl

That Council move from behind closed doors.

Carried: 8/0

19044.1 CLOSURE

Cr L Butler declared the meeting closed at 5.07 pm.