

MINUTES

FOR THE
GREATER SHEPPARTON CITY COUNCIL

SPECIAL COUNCIL MEETING

HELD ON
WEDNESDAY 27 JANUARY, 2016
AT 2.00PM

IN THE COUNCIL BOARDROOM

COUNCILLORS:

Cr Dinny Adem (Mayor)
Cr Fern Summer (Deputy Mayor)
Cr Chris Hazelman
Cr Jenny Houlihan
Cr Les Oroszvary
Cr Dennis Patterson
Cr Kevin Ryan

VISION

GREATER SHEPPARTON, GREATER FUTURE
A THRIVING ECONOMY IN THE FOODBOWL OF VICTORIA WITH
EXCELLENT LIFESTYLES, INNOVATIVE AGRICULTURE, A DIVERSE
COMMUNITY AND ABUNDANT OPPORTUNITIES

**M I N U T E S
FOR THE
SPECIAL COUNCIL MEETING
HELD ON
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**CHAIR
CR DINNY ADEM**

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RISK LEVEL MATRIX LEGEND

Note: A number of reports in this agenda include a section on “risk management implications”. The following table shows the legend to the codes used in the reports.

Likelihood	Consequences				
	Negligible (5)	Minor (4)	Moderate (3)	Major (2)	Catastrophic (1)
Almost Certain (A) Event expected to occur several times per year (i.e. Weekly)	Low	Moderate	High	Extreme	Extreme
Likely (B) Will probably occur at some stage based on evidence of previous incidents (i.e. Monthly)	Low	Moderate	Moderate	High	Extreme
Possible (C) Not generally expected to occur but may under specific circumstances (i.e. Yearly)	Low	Low	Moderate	High	High
Unlikely (D) Conceivable but not likely to occur under normal operations (i.e. 5-10 year period)	Insignificant	Low	Moderate	Moderate	High
Rare (E) Only ever occurs under exceptional circumstances (i.e. +10 years)	Insignificant	Insignificant	Low	Moderate	High

Extreme CEO’s attention immediately required. Possibly avoid undertaking the activity OR implement new controls

High Director’s attention required. Consider suspending or ending activity OR implement additional controls

Moderate Manager’s attention required. Ensure that controls are in place and operating and management responsibility is agreed

Low Operational, manage through usual procedures and accountabilities

Insignificant Operational, add treatments where appropriate

PRESENT: Councillors Dinny Adem, Fern Summer, Chris Hazelman, Jenny Houlihan, Les Oroszvary, Dennis Patterson and Kevin Ryan

**OFFICERS: Peter Harriott – Chief Executive Officer
Sharlene Still – Official Minute Taker
Rebecca Bertone – Deputy Minute Taker**

1. ACKNOWLEDGEMENT

“We the Greater Shepparton City Council, begin today’s meeting by acknowledging the traditional owners of the land which now comprises Greater Shepparton. We pay respect to their tribal elders, we celebrate their continuing culture, and we acknowledge the memory of their ancestors.”

2. APOLOGIES

Nil.

3. DECLARATIONS OF CONFLICT OF INTEREST

In accordance with sections 77A, 77B, 78 and 79 of the *Local Government Act 1989* Councillors are required to disclose a “conflict of interest” in a decision if they would receive, or could reasonably be perceived as receiving a direct or indirect financial or non-financial benefit or detriment (other than as a voter, resident or ratepayer) from the decision.

Disclosure must occur immediately before the matter is considered or discussed.

4. OFFICE OF THE CHIEF EXECUTIVE OFFICER

4.1 Designation of Confidentiality of Information – Reports

**Moved by Cr Oroszvary
Seconded by Cr Hazelman**

That the Council, in accordance with section 77(2)(b) of the *Local Government Act 1989* (the Act), designates as confidential all documents used to prepare the following agenda item 'Alleged Contraventions of Local Government Act 1989 and Councillor Code of Conduct', previously designated by the Chief Executive Officer in writing as confidential under section 77(2)(c) of the Act. This document relates to a legal matter, which is a relevant ground applying under section 89(2)(f) of the Act.

CARRIED

Cr Patterson called for a division.

Those in voting in favour of the motion: Cr Ryan, Cr Hazelman, Cr Oroszvary, Cr Houlihan and Cr Adem.

Those voting against the motion: Cr Patterson and Cr Summer.

4.2 Designation of Confidentiality of Information

**Moved by Cr Hazelman
Seconded by Cr Houlihan**

That pursuant to section 89(2)(f) of the *Local Government Act 1989* the Council meeting be closed to members of the public for consideration of a confidential item.

CARRIED.

4. OFFICE OF THE CHIEF EXECUTIVE OFFICER

4.3 Alleged Contraventions of Local Government Act 1989 and Councillor Code of Conduct

Disclosures of conflicts of interest in relation to advice provided in this report
Under section 80C of the *Local Government Act 1989* officers and persons engaged under a contract providing advice to Council must disclose any conflicts of interests, including the type and nature of interest.

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Council Officers involved in producing this report

Author: Manager Corporate Performance

Proof reader(s): Chief Executive Officer

Approved by: Chief Executive Officer

Executive Summary

In a letter dated 11 March 2015, Mr Gavin Cator, the former Chief Executive Officer, made a complaint against Councillors Patterson, Oroszvary and Ryan.

An investigation into the allegations made by Mr Cator commenced in March 2015.

In December 2015, advice was provided by Maddocks lawyers on Council's health and safety obligations and whether the conduct reviewed by the investigation constitute breaches of the Local Government Act (Act) and the Councillor Code of Conduct (Code).

Options for recommendation are provided below:

RECOMMENDATION A

That the Council:

1. note the advice received from Maddocks Lawyers dated 22 December 2015 titled Alleged contraventions of Local Government Act 1989 and Councillor Code of Conduct
2. take no further action in relation to this matter.

RECOMMENDATION B

That the Council:

1. Note the advice received from Maddocks Lawyers dated 22 December 2015 titled Alleged contraventions of Local Government Act 1989 and Councillor Code of Conduct
2. Resolve to make an application against Councillor Patterson to a Councillor Conduct Panel under section 81B of the Local Government Act 1989

4. OFFICE OF THE CHIEF EXECUTIVE OFFICER

4.3 Alleged Contraventions of Local Government Act 1989 and Councillor Code of Conduct

RECOMMENDATION C

That the Council:

1. Note the advice received from Maddocks Lawyers dated 22 December 2015 titled Alleged contraventions of Local Government Act 1989 and Councillor Code of Conduct
2. Resolve to make an application against Councillors Patterson, Ryan and Oroszvary to a Councillor Conduct Panel under section 81B of the Local Government Act 1989

Moved by Cr Oroszvary Seconded by Cr Ryan

That the Council:

1. note the advice received from Maddocks Lawyers dated 22 December 2015 titled Alleged contraventions of Local Government Act 1989 and Councillor Code of Conduct
2. take no further action in relation to this matter.

Cr Oroszvary was granted an extension of time.

The motion was lost.

Cr Patterson called for a division.

Those voting in favour of the motion: Cr Oroszvary, Cr Ryan and Cr Patterson.

Those voting against the motion: Cr Adem, Cr Houlihan, Cr Summer and Cr Hazelman.

4. OFFICE OF THE CHIEF EXECUTIVE OFFICER

4.3 Alleged Contraventions of Local Government Act 1989 and Councillor Code of Conduct

Moved by Cr Hazelman

Seconded by Cr Houlihan

That the Council:

1. Note the advice received from Maddocks Lawyers dated 22 December 2015 titled Alleged contraventions of Local Government Act 1989 and Councillor Code of Conduct
2. Resolve to make an application against Councillor Patterson to a Councillor Conduct Panel under section 81B of the Local Government Act 1989

Cr Adem vacated the chair at 2.30pm to speak to the motion.

Cr Summer assumed the chair.

Cr Adem resumed the chair at 2.32pm.

The motion was put and carried.

Cr Ryan called for a division.

Those voting in favour of the motion: Cr Adem, Cr Houlihan, Cr Summer and Cr Hazelman.

Those voting against the motion: Cr Oroszvary, Cr Ryan and Cr Patterson.

Background

An investigation commenced into the allegations made by Mr Cator, former Chief Executive Officer of the Greater Shepparton City Council, against Councillors Patterson, Oroszvary and Ryan in a letter of complaint dated 11 March 2015. The complaint stated that the Councillors:

'failed in their duty of care to me as an employee and engaged in conduct unbefitting of a Councillor. In so doing they have breached their obligations under Part 4 of the Local Government Act 1989 (Vic) ('the LGA') and the Greater Shepparton City Council Councillor Code of Conduct adopted by resolution of the Council on 16 April 2013 ('the Code of Conduct).'

This investigation was undertaken by consultant of Worklogic Pty. Ltd. between April and November 2015, as instructed by Maddocks Lawyers.

The investigation analyses evidence obtained through the interview process. The allegations and findings were assessed as to whether, on the balance of probabilities, these allegations are proven, not proven or proven in part.

Councillors now need to decide if an application for a Councillor Conduct Panel (CCP) is to be made into the findings of misconduct against Cr Patterson.

4. OFFICE OF THE CHIEF EXECUTIVE OFFICER

4.3 Alleged Contraventions of Local Government Act 1989 and Councillor Code of Conduct

Council Plan/Key Strategic Activity

There are no direct links to the Council Plan.

Risk Management

The investigation was first initiated due to Councils duty to its employees under the Occupational Health and Safety Act 2004 to provide and maintain a working environment that is safe and without risks to health.

Worksafe Victoria refers to workplace bullying as being characterised by 'persistent and repeated negative behaviour directed at an employee that creates a risk to health and safety.

Policy Considerations

There are no specific policy consideration in relation to this matter.

Financial Implications

If the Council resolves to submit an application for a CCP there will be costs involved. The CCP is made up of a legal representative and a Governance Professional.

The legal member chair charges \$850 per day and the municipal governance member charges \$750 per day. Daily charges do not include GST.

These costs must be paid by the council establishing the panel.

There is no allocated budget specifically for a CCP.

Legal/Statutory Implications

If council resolves to take the matter to a CCP, there are legal requirements that must be followed within the Act.

Environmental/Sustainability Impacts

There are no Environmental/Sustainability Impacts associated with this report.

Social Implications

There are no Social Implications associated with this report.

Economic Impacts

There are no Economic Impacts associated with this report.

Consultation

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

There are no links with the Greater Shepparton 2030 Strategy

b) Other strategic links

There are no Strategic links associated with this report.

4. OFFICE OF THE CHIEF EXECUTIVE OFFICER

4.3 Alleged Contraventions of Local Government Act 1989 and Councillor Code of Conduct

Conclusion

Councillors now need to decide the action to be taken, if any.

Attachments

Report on Alleged Contraventions of Local Government Act 1989 and Councillor Code of Conduct - Maddocks Lawyers - 22 December 2015

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5. OFFICE OF THE CHIEF EXECUTIVE OFFICER

5.1 Urgent and other Business

**Moved by Cr Houlihan
Seconded by Cr Oroszvary**

That the confidentiality be lifted from the Wednesday 27 January Agenda, associated Attachments and subsequent Minutes.

CARRIED.

Cr Summer called for a division.

Those voting in favour of the motion: Cr Oroszvary, Cr Adem, Cr Ryan, Cr Houlihan, Cr Patterson, Cr Summer and Cr Hazelman.

5.2 Reopening of the Council Meeting to Members of the Public

**Moved by Cr Hazelman
Seconded by Cr Oroszvary**

That the Council meeting be re-opened to members of the public.

CARRIED

THE MEETING CLOSED AT 2.45 PM