

CITY OF JOONDALUP

MINUTES OF SPECIAL COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON WEDNESDAY 4 JUNE 2003

ATTENDANCES

Mayor

D CARLOS

Elected Members:

Cr L PROSPERO	Lakeside Ward
Cr C BAKER	Marina Ward
Cr T BREWER	Marina Ward
Cr A NIXON	North Coastal Ward
Cr J F HOLLYWOOD, JP	North Coastal Ward
Cr A WALKER	Pinnaroo Ward
Cr P ROWLANDS	Pinnaroo Ward
Cr S HART	South Ward
Cr M O'BRIEN, JP	South Ward
Cr G KENWORTHY	South Coastal Ward
Cr J GOLLANT	South Coastal Ward
Cr C MACKINTOSH	Whitfords Ward
Cr M CAIACOB	Whitfords Ward

Officers:

Chief Executive Officer:	D SMITH
Director Planning & Community Development:	C HIGHAM
Director, Infrastructure & Operations:	D DJULBIC
Director, Corporate Services and Resource Management:	P SCHNEIDER
Manager, Marketing, Communications & Council Support:	M SMITH
Manager Audit and Executive Services:	K ROBINSON
Manager Human Resource Services:	M LOADER
Publicity Officer:	L BRENNAN
Committee Clerk:	J AUSTIN

APOLOGIES AND LEAVE OF ABSENCE

Apology: Cr P Kimber

There were 14 members of the Public and no member of the Press in attendance.

The Mayor declared the meeting open at 1930 hrs.

PUBLIC QUESTION TIME

(Please Note: Section 7(4)(b) of the Local Government (Administration) Regulations 1996 states that a Council at a special meeting is not required to answer a question that does not relate to the purpose of the meeting. It is requested that only questions that relate to items on the agenda be asked).

Mrs M Macdonald, Mullaloo:

Q1 What factors will Councillors use to determine that Mr Smith performs his duties professionally? What is the performance criteria that they will use?

A1 Response by Cr Mackintosh: I will base our CEO's credentials on performance. Our CEO has an outstanding performance record since he has joined the City and I think that is the most important thing.

Response by Cr Hart: I did request to have a timeline done on consultancies since Mr Smith was employed by the City and for the same timeline before Mr Smith was employed by the City. I also asked for a breakdown of legal fees for the CEO and for the City. I thought that might be of assistance as I have no other information and I am a new Councillor. This information has not yet been provided.

Response by Cr Prospero: There is a contract with the CEO and the City, part of that contract is his performance which is assessed on an annual basis by the Mayor, Deputy Mayor and an independent person. I understand that he has been performing well and has been outstanding as Cr Mackintosh has just stated. It is not the Councillors that make the assessment on the CEO, it is part of the contract that he is required to have annual performance indicators and this is reported back to the Council.

Response by Cr Baker: I think the CEO's performance needs to be assessed on the basis of impartial, objective merit, based on real factors rather than perceived factors and that issue is very much a topical issue at the moment. From my dealings with the CEO to date he has been a very good CEO. We have experienced considerable rate savings, considerable efficiencies which have saved the Council several hundred thousand dollars over the life of his contract and more, and when we conducted that assessment over a year ago the figures that I viewed indicated that the CEO at that stage had already saved the City the salary that the City will pay to him over the life of his contract.

Mr M Sideris, Mullaloo:

Q1 Why has this meeting been called, as I thought the matter had been discussed by Council and it was agreed that Minter Ellison review the contract and that the CEO's contract is currently under investigation?

- A1 *Response by Cr Baker:* When the notice was given requisitioning the meeting, the issue had not arisen. Unfortunately under the Act once notice is given requisitioning these meetings it is not possible to adjourn or defer them until the night of the meeting itself. This is a quirk of the Act and it is unfortunate that the Act has not been amended to allow that particular impasse to be overcome.
- Q2 *In relation to a response given by Cr Prospero, how did Councillors intend to assess the CEO's performance based on his contract performance indicators when at the last meeting I think only one Councillor has read his contract?*
- A2 *Response by Cr O'Brien:* The contract document was provided to Councillors as a draft copy and then Council endorsed the contract at a later stage. I don't see what difficulty there is.
- *Mr Sideris queried whether the five new Councillors sighted the contract so that they can be familiar with the performance indicators as written into the CEO's contract.*
- Q3 *How much is this meeting costing ratepayers tonight?*
- A3 The cost to the Council is minimal, being one or two staff members' overtime costs and the light supper provided.
- Q4 *I want a dollar cost, including travelling as claimed by Councillors and cost of staff.*
- A4 This question will be taken on notice.

At the request of the Mayor, Cr Mackintosh withdrew comments she had made.

Mr S Magyar, Heathridge:

- Q1 *Is it correct that in the CEO's contract, if a performance review is not conducted on the CEO, that he will automatically receive a pay increase?*
- A1 This question will be taken on notice.
- Q2 *When the CEO's performance was last reviewed by Elected Members, were the Elected Members who conducted the performance review authorised by a resolution of Council to conduct that activity?*
- A2 The provisions in his contract allow the method by which the performance review is conducted.
- Q3 *Was the complete Council involved in drawing up the criteria by which the CEO's performance was last reviewed?*
- A3 This question will be taken on notice.
- Q4 *Can some of the details of the claimed savings achieved under Mr Smith's reign as CEO be provided?*

A4 *Response by Cr Baker:* The outsourcing of the Security Watch service, savings in relation to the superannuation paid to new staff and the substantial restructure of the City of Joondalup.

At the request of the Mayor, Cr Mackintosh withdrew comments she had made.

- Mr Magyar raised a question relating to a report of the Department of Local Government of New South Wales. This question was not relevant to the purpose of this meeting.

Ms M Moon, Greenwood:

Q1 *The wording of the proposed motion refers to “yet again declare their support”. What is meant by this, has it previously been done?*

A1 *Response by Cr Gollant:* Newly elected Councillors have not had an opportunity to declare where they stand on the issue.

Q2 *So the five new Councillors can say they are fully aware that there are issues before the Local Government of insufficient reports, incomplete reports, the matter of the Mullaloo Tavern which has a writ upon it, and there is a \$18.2 pending. Are they aware of all these issues?*

A2 *Response by Cr Nixon:* In any large complex local government organisation such as the City of Joondalup there will be a number of issues which will be controversial. I think the fact that there have been a number of writs and controversial issues does not necessarily mean that the City is performing badly. I have based my assessment on Mr Smith’s performance since his appointment and as you will be aware I moved a motion in support of the CEO some time ago. I have based my assessment and my support of him on his performance on the issues that Cr Baker raised. Primarily, there have been considerable cash savings which are actual, tangible, demonstrable cash savings. In relation to the matters that have been brought up in relation to things which have been discussed in the media, I am not assessing those or including those in my assessment of Mr Smith’s performance. What I am actually basing my assessment on is on how the City has performed as an entity in terms of the money saved, and efficiencies since his appointment.

Mrs M Macdonald, Mullaloo:

Q1 *Cr Baker and other Councillors based the performance of Denis Smith on cost cutting basis. When you cut costs you also have to assess whether or not the City’s services and officers can perform their duties as the ratepayers would wish. Are they absolutely sure that these savings have also maintained the previous standards?*

A1 *Response by Cr Baker:* Yes.

DECLARATIONS OF FINANCIAL INTEREST/ INTEREST AFFECTING IMPARTIALITY

The Chief Executive Officer, Mr Denis Smith declared a financial interest in JSC65 –06/04 as it deals with matters that could directly or indirectly impact on his contract of employment.

ITEM OF BUSINESS

JSC65-06/04 **CONTRACT OF EMPLOYMENT FOR THE CHIEF EXECUTIVE OFFICER AND RELATED ISSUES/NOTICE OF MOTION – CR G KENWORTHY – VOTE OF CONFIDENCE IN MR DENIS SMITH – [75666]**

In accordance with Section 5.4(a)(ii) of the Local Government Act 1995, the following elected members requested that a Special Meeting of Council be convened:

Cr P Rowlands
Cr G Kenworthy
Cr C Baker
Cr P Kimber
Cr T Brewer

The purpose of the meeting is to discuss:

- 1 Contract of Employment for the Chief Executive Officer and related issues;
- 2 Notice of Motion – Cr G Kenworthy – Vote of Confidence in Mr Denis Smith.

”That the Councillors of the City of Joondalup hereby yet again declare their support for the City’s CEO Denis Smith and congratulate and thank him for his professional administration of the City of Joondalup.”

MOVED Cr Prospero SECONDED Cr Baker that the matters detailed within the purpose of tonight’s agenda being:

- 1 **Contract of employment for the Chief Executive Officer and related issues;**
- 2 **That the Councillors of the City of Joondalup hereby yet again declare their support for the City’s CEO, Denis Smith and congratulate and thank him for his professional administration of the City**

be DEFERRED pending the outcome of the report being prepared by Minter Ellison lawyers, as per the resolution of the Council at its meeting held on 27 May 2003.

The Motion was Put and

CARRIED UNANIMOUSLY (14/0)

In favour of the Motion: Mayor Carlos, Crs Prospero, Baker, Brewer, Nixon, Hollywood, Walker, Rowlands, Hart, O’Brien, Kenworthy, Gollant, Mackintosh and Caiacob.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 1952 hrs; the following elected members being present at that time:

MAYOR D CARLOS
CR L PROSPERO
CR T BREWER
CR C BAKER
CR J HOLLYWOOD, JP
CR A NIXON
CR A WALKER
CR P ROWLANDS
CR S HART
CR M O'BRIEN, JP
CR G KENWORTHY
CR J GOLLANT
CR C MACKINTOSH
CR M CAIACOB