

# Special Meeting of Council

# Minutes

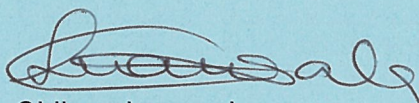
*Section 5.22 of the Local Government Act 1995*

## 14 May 2020

*6.1 Accuracy and Completeness of Information*

### Unconfirmed Minutes

These minutes were approved for distribution on 22 May 2020.



Chileya Luangala  
**ACTING CHIEF EXECUTIVE OFFICER**

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following Ordinary Meeting of Council, where the Minutes will be confirmed subject to any amendments made by the Council.

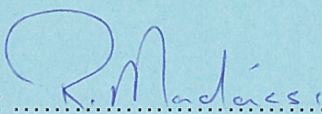
The "Confirmed" Minutes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Council Meeting are put together as attachments to these Minutes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as separate Confidential Minuted Agenda Items.

### Confirmed Minutes

These minutes were confirmed at a meeting held on 26 May 2020.

Signed:  .....

*Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.*

# Shire of Toodyay

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## SPECIAL COUNCIL MEETING – 14 MAY 2020

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**ATTACHMENTS** *with separate index follows Item 7.*

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# Shire of Toodyay

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## MINUTES

### SPECIAL COUNCIL MEETING – 14 MAY 2020

#### 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Madacsi, declared the meeting open at 10.01am.

The Shire President announced to the community that we do have three visitors in the gallery.

#### 2. RECORDS OF ATTENDANCE

##### Members

Cr R Madacsi	Shire President
Cr B Ruthven	Deputy Shire President
Cr B Bell	
Cr T Chitty	
Cr P Greenway	
Cr P Hart	
Cr S Pearce	
Cr B Rayner	

##### Staff

Mrs S Haslehurst	Chief Executive Officer
Mrs C Luangala	Manager Corporate & Community Services
Mr K Nieuwoudt	Manager Planning & Development
Mr S Patterson	Manager Works and Services
Mrs M Rebane	Executive Assistant

##### Visitors

M Sinclair-Jones  
A McCann  
P Ruthven

#### 2.1 APOLOGIES

Nil

#### 3. DISCLOSURE OF INTERESTS

The Chief Executive Officer advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

***Cr Madacsi disclosed an Impartiality Interest to the content of the report at 10.02am. The nature of her interest was that she was named in the report.***

***Cr Ruthven disclosed an Impartiality Interest to the content of the report at 10.03am. The nature of her interest was that she was named in the report.***

**4. PUBLIC QUESTIONS** (relating to the purpose of the meeting)

Nil

**5. PUBLIC SUBMISSIONS** (relating to the purpose of the meeting)

Nil

**6. PURPOSE OF MEETING**

**OFFICER'S RECOMMENDATION**

1. That, in accordance with Standing Orders Clause 5.2 (2), Council close the meeting to members of the public at 10.04am to allow the part of the meeting that deals with confidential business to continue behind closed doors in accordance with Section 5.23 (2) of the *Local Government Act 1995* as matters being considered deal with the following —
  - (a) a matter affecting an employee or employees; and
  - (b) the personal affairs of any person; and
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
  - (e) 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,where the trade secret or information is held by, or is about, a person other than the local government; and
  - (f) a matter that if disclosed, could be reasonably expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and
2. That in accordance with Standing Orders Clause 5.2 (5) while the resolution under sub-clause 5.2 (2) remains in force, the operation of Standing Orders Clause 7.9 is to be suspended until the Council, by resolution, decides otherwise.

Cr Madacsi moved the Officer's Recommendation.

Clarification was sought.

Cr Pearce seconded the motion.

Debate commenced.

The motion was put.

**OFFICER'S RECOMMENDATION/COUNCIL RESOLUTION NO.  
156/05/20**

**MOVED** Cr Madacsi

**SECONDED** Cr Pearce

1. That, in accordance with Standing Orders Clause 5.2 (2), Council close the meeting to members of the public at 10.04am to allow the part of the meeting that deals with confidential business to continue behind closed doors in accordance with Section 5.23 (2) of the *Local Government Act 1995* as matters being considered deal with the following —
  - (a) a matter affecting an employee or employees; and
  - (b) the personal affairs of any person; and
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
  - (e) 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,where the trade secret or information is held by, or is about, a person other than the local government; and
  - (f) a matter that if disclosed, could be reasonably expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and
2. That in accordance with Standing Orders Clause 5.2 (5) while the resolution under sub-clause 5.2 (2) remains in force, the operation of Standing Orders Clause 7.9 is to be suspended until the Council, by resolution, decides otherwise.

**MOTION CARRIED 6/2**

In accordance with Section 5.21(4)(b) of the Local Government Act 1995, Cr Rayner requested that the vote of all members present be recorded. Councillors Madacsi, Ruthven, Bell, Chitty, Hart, and Pearce voted for the motion. Councillors Rayner and Greenway voted against the motion.

*The public departed the Council Chambers at 10.11am. The electronic meeting moved behind closed doors at the same time.*

***Cr Madacsi disclosed an Impartiality Interest to the content of the report at 10.02am. The nature of her interest was that she was named in the report.***

***Cr Madacsi stated that as a consequence, there may be a perception that my impartiality on the matter may be affected. I will therefore declare that I will consider this matter on its merits and vote accordingly.***

***Cr Ruthven disclosed an Impartiality Interest to the content of the report at 10.03am. The nature of her interest was that she was named in the report.***

***Cr Ruthven stated that as a consequence, there may be a perception that my impartiality on the matter may be affected. I will therefore declare that I will consider this matter on its merits and vote accordingly.***

<b>6.1 Accuracy and Completeness of Information</b>
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Date of Report:	9 May 2020
Applicant / Proponent/s:	Shire of Toodyay
File Reference:	ELT1
Author:	C Luangala – Acting Chief Executive Officer
Responsible Officer:	C Luangala – Acting Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Advocacy
<b>Confidential Attachment:</b>	1. Report from the Acting CEO
Voting Requirements:	Simple Majority

## **PURPOSE OF THE REPORT**

To receive a report from the Acting CEO in relation to the accuracy and completeness of information being provided to Council by the Shire President.

## **BACKGROUND**

On 8 May 2020, Councillors Bell, Chitty and Greenway signed a Memorandum of Notice to call a Special Meeting of Council.

## **CONSULTATION IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

There are no adverse strategic implications envisaged from this report.

## **POLICY IMPLICATIONS**

There are no adverse policy implications envisaged from this report.

## **FINANCIAL IMPLICATIONS**

There are no adverse financial implications envisaged from this report.

## **LEGAL AND STATUTORY IMPLICATIONS**

The functions of the CEO are quite clear in Section 5.41 of the Local Government Act 1995.

The role of a Mayor or President is quite clear in Section 2.8 of the Local Government Act 1995.

The role of a Councillor is quite clear in Section 2.7 of the Local Government Act 1995.

## **RISK IMPLICATIONS (including DAIP)**

There are no adverse risk implications envisaged from this report.

## **SOCIAL IMPLICATIONS**

There are no adverse social implications envisaged from this report.

## **ENVIRONMENTAL IMPLICATIONS**

There are no adverse environmental implications envisaged from this report.

## **ECONOMIC IMPLICATIONS**

There are no adverse economic implications envisaged from this report.

## **OFFICER COMMENT / DETAILS**

It is recommended that Councillors receive the Officer's Report.

### **OFFICER'S RECOMMENDATION**

That Council receive the report titled "6.1 Report of the accuracy and completeness of information being provided to Council by the Shire President", as attached.

(Simple Majority)

Cr Chitty moved an alternate motion as follows:

#### **That Council:**

- 1. Accepts what is contained in the report 6.1. Report of the accuracy and completeness of information being provided to Council by the Shire President up to 7 May 2020 and that it is an accurate account of events", as attached.**
- 2. Supports the Acting CEO in whatever action is available to her in dealing with the threatening nature of information provided within the report.**

Cr Greenway seconded the motion.

Clarification was sought.

Debate commenced.

Cr Madacsi foreshadowed an alternate motion as follows:

**That the Shire President has provided accurate and correct information to Council except where directed by the Department not to.**

Further clarification was sought.

Cr Chitty moved an amendment to the motion as follows:

**That Point 2 be withdrawn.**

Cr Greenway objected to the amendment.

Further clarification was sought.

The amendment was lost for want of a seconder.

Debate continued.

Cr Bell moved a motion as follows:

**That Standing Orders 7.9 be resumed at 10.58am.**

Cr Rayner seconded the motion.

The motion was put.

**MOTION/COUNCIL RESOLUTION NO. 157/05/20**

**MOVED** Cr Bell

**SECONDED** Cr Rayner

That Standing Orders 7.9 be resumed at 10.58am.

**MOTION CARRIED 8/0**

The debate on the substantive motion recommenced.

Cr Bell moved a Procedural Motion in accordance with Standing Orders 10.1(d) as follows:

**That the question be now put at 11.13am in accordance with Standing Orders 10.8.**

Cr Rayner seconded the motion.

The motion was put.

**PROCEDURAL MOTION/COUNCIL RESOLUTION NO. 158/05/20**

**MOVED** Cr Bell

**SECONDED** Cr Rayner

That the question be now put at 11.18am in accordance with Standing Orders 10.8.

**MOTION CARRIED 7/1**

In accordance with Section 5.21(4)(b) of the *Local Government Act 1995*, Cr Ruthven requested that the vote of all members present be recorded. Councillors Madacsi, Bell, Chitty, Hart, Pearce, Rayner and Greenway voted for the motion. Councillor Ruthven voted against the motion.

The substantive motion was put.

**ALTERNATE MOTION/COUNCIL RESOLUTION NO. 159/05/20**

**MOVED** Cr Chitty

**SECONDED** Cr Greenway

That Council:

1. Accepts what is contained in the report 6.1. Report of the accuracy and completeness of information being provided to Council by the Shire President up to 7 May 2020 and that it is an accurate account of events", as attached.
2. Supports the Acting CEO in whatever action is available to her in dealing with the threatening nature of information provided within the report.

**MOTION LOST 3/5**

In accordance with Section 5.21(4)(b) of the *Local Government Act 1995*, Cr Rayner requested that the vote of all members present be recorded. Councillors Chitty, Rayner and Greenway voted for the motion. Councillors Bell, Ruthven, Hart, Pearce and Madacsi voted against the motion.

Cr Madacsi moved a motion as follows:

**That the Shire President has provided accurate and correct information to Council except where directed by the Department of Local Government, Sport and Cultural Industries not to.**

Cr Ruthven seconded the motion.

Clarification was sought.

Debate commenced.

Cr Bell foreshadowed the Officer's Recommendation as a motion as follows:

**That Council receive the report titled "6.1 Report of the accuracy and completeness of information being provided to Council by the Shire President", as attached.**

Debate continued.

The motion was put.

**MOTION/COUNCIL RESOLUTION NO. 160/05/20**

**MOVED** Cr Madacsi

**SECONDED** Cr Ruthven

That the Shire President has provided accurate and correct information to Council except where directed by the Department of Local Government, Sport and Cultural Industries not to.

**VOTES EQUALLY DIVIDED 4/4**

*In accordance with 5.21(3) of the Local Government Act 1995, the Presiding Member cast a second vote 'for' the motion.*

**MOTION CARRIED 5/4**

*The Officer's Recommendation was not moved because the report in its entirety did not reflect the reasons the meeting was called.*

**MOTION/COUNCIL RESOLUTION NO. 161/05/20**

**MOVED** Cr Bell

**SECONDED** Cr Rayner

That Council come from behind closed doors at 11.40am.

**MOTION CARRIED 8/0**

*The Council Chambers were re-opened at 11.42am. The Shire President read aloud the Resolution No. 160/05/20 for the benefit of the public gallery.*

**7. CLOSURE OF MEETING**

The Chairperson declared the meeting closed at 11.45am.