

## **Council Meeting Minutes**

**11 September 2018 | 7.00 pm  
Council Chamber  
401 Greenhill Road, Tusmore**

**Members Present:** Mayor David Parkin  
Councillors Wilkins, Lemon, Bills, Monceaux, Ford, Cornish, Davey,  
Lord (from 7.11pm), Piggott, Davis

**Staff Present:** Paul Deb, Chief Executive Officer  
Martin Cooper, General Manager, Corporate and Development  
Barry Cant, General Manager, Urban and Community

**The Mayor read the opening prayer.**

**The Mayor acknowledged those who gave their life for this Country and also acknowledged the Traditional Owners.**

**The Mayor advised of the relevant legislation and offences that address behaviour that disrupts a Council Meeting and informed all present that offences apply to both members of the gallery and Elected Members**

### **Evacuation Procedure**

The Mayor read the evacuation procedure.

### **Recording of Council Meetings**

The Mayor advised that the Council Meeting is recorded and live streamed.

### **Apologies**

Councillor Osterstock

### **Leave of Absence**

Nil

**Confirmation of Minutes****Recommendation**

C11813

That the Minutes of the meeting of Council held on 28 August 2018 be taken as read and confirmed.

Moved Councillor Cornish, Seconded Councillor Lemon

CARRIED

The Mayor acknowledged Wing Commander Hartley Vivian 'Viv' Shearn who passed away recently. Viv served the City of Burnside for 10 years as a Councillor and was Mayor from 1991 to 1993. The Mayor, on behalf of the City of Burnside, extended condolences to his wife and family.

**Mayor's Report****Recommendation**

C11814 That the Mayor's report be received.

Moved Councillor Davey, Seconded Councillor Wilkins

CARRIED

**Reports of Members, Delegates and Working Parties**

Councillor Osterstock attended a meeting of the Burnside Hospital Board on 29 August 2018.

Councillor Monceaux attended two meetings with an Administration staff member on 28 August 2018 and 5 September 2018; attended the Caretaker Training Workshop on 28 August 2018; attended an Eastern Health Authority Board meeting on 29 August 2018; assisted with editing the EHA Annual Report on 31 August 2018; attended the Candidate Briefing on 6 September 2018; attended the visit to the Boral site on 10 September 2018 and the Workshop prior to Council on 11 September 2018.

Councillor Bills attended the visit to the Boral site on 10 September 2018.

Councillor Lemon attended the Caretaker Training Workshop on 28 August 2018.

Councillor Wilkins attended the Open garden for the Mediterranean Garden Society on 1 September 2018 at 11 Ringmer Avenue Burnside, a native plant garden that was a previous winner in Burnside's Garden Competition; attended the presentation to Glenunga Rams Junior girls football teams on 2 September 2018; attended the Council Assessment Panel meeting on 4 September 2018; attended the Budget Breakfast for David Pisoni, MP on 5 September 2018 and attended the Candidate briefing for Council elections on 6 September 2018.

Councillor Piggott attended a Special Meeting of East Waste on 3 September 2018.

Councillor Davey attended a meeting of the Burnside Hospital Board on 29 August 2018; attended the Electoral Commission briefing for potential Local Government candidates on 6 September 2018; attended several meetings with local constituents and attended the site visit to the Boral Quarry at Stonyfell on 10 September 2018.

Councillor Cornish attended the Caretaker period training on 28 August 2018; attended an Eastern Health Authority Board Meeting on 29 August 2018 and attended the Burnside War Memorial Hospital Constitution Workshop on 11 September 2018.

Councillor Ford attended the Burnside War Memorial Hospital Constitution Workshop on 11 September 2018.

### **Deputations**

Nil

### **Petitions**

Penfold Park Toilet Facilities – Petition against Removal (9.1)

### **Motion**

C11815

1. That the Petition be received.
2. That Council note that, consistent with resolution C11785 provided below, no demolition will occur of this facility without the approval of Council and that a report will be provided to Council in due course outlining the options available to mitigate the current issues at the site; with a toilet facility inherent and essential in any proposed option or model.
3. That Council Administration corresponds with the head petitioner and signatories to advise of Council's consideration and this resolution.

*'C11785*

1. *That demolition of the Penfold Park toilets will not occur unless approved by Council.*
2. *That a report be provided to Council outlining the options for addressing the existing issues but maintaining a toilet facility at Penfold Park.'*

Moved Councillor Davis, Seconded Councillor Piggott

CARRIED

### **Questions on Notice**

#### **Use of Chemicals (10.1)**

Councillor Bills asked the following Question on Notice:

1. With the recent massive compensation payout awarded to a man who contracted cancer from using Roundup/Glyphosate made by Monsanto can I ask when Burnside Council will stop using this now proven carcinogenic product which potentially is putting users, residents, walkers and animal's health at considerable risk?

*All herbicides used by Council for the control of weeds on verges and in reserves are approved by the Australian Pesticides and Veterinary Medicines Authority (APVMA), the leading Australian authority on such matters.*

*Glyphosate is registered for use based on stringent assessments undertaken by the APVMA. Council will continue to seek advice and follow the directions of the APVMA with respect to operational requirements.*

*In relation to the specific case referred to in the question, the following public statement is taken directly from the APVMA's Federal Government website:*

*"The Australian Pesticides and Veterinary Medicines Authority (APVMA) is aware of the August 2018 decision in the Californian Superior Court concerning glyphosate.*

*Glyphosate is registered for use in Australia and APVMA approved products containing glyphosate can continue to be used safely according to label directions. Australian law requires appropriate warnings on product labels, which include relevant poisons scheduling, first aid, and safety directions detailing personal protective equipment when handling and using products containing glyphosate. The APVMA reminds all users of the importance of following **all** label instructions.*

*As the national regulator for agricultural chemicals, we continue to track and consider any new scientific information associated with safety and effectiveness of glyphosate, including the information available from other regulators.*

*In 2016, following the IARC assessment, the APVMA considered glyphosate and found no grounds to place it under formal reconsideration."*

## **Road Collisions and Statistics (10.2)**

Councillor Ford asked the following Questions on Notice:

Given that since June 2017 to early 2018 four people were killed on roads in the City of Burnside, ten were severely injured, and 138 crashes resulted in minor injuries:

1. Has there been engagement with DPTI or SAPOL to analyse the circumstances of all of the collisions?

*In addition to information provided to and from Council as part of the annual Black Spot program and associated nomination process, which focuses on discrete sites or lengths of road meeting certain criteria, i.e. casualty crashes, the DPTI annually provide Council Administration with an updated data set covering the previous five year crash reporting period.*

*This data is loaded into Council's Geographical Information System (GIS) where the information can be viewed and interrogated either thematically or in table form. The crash data provides details that include:*

- *Location*
- *Date*
- *Light and weather conditions*
- *Crash type (right angle, rear end etc.)*
- *Crash severity (minor injury, property damage only etc.)*
- *Apparent cause (disobey Give Way, inattention etc.)*
- *Road geometry and speed limit*

*The above information is reviewed annually as part of the Black Spot program consideration process. Black Spot Programs are a vital part of the State and Federal Government's commitment to improving road safety and reducing road crashes and trauma on South Australian roads. In addition to this, the data is reviewed on an ongoing basis as part of the consideration of all crash data (not just casualty crashes) to identify patterns or trends, and where funds may need allocation/sourcing for traffic programs.*

*It is also reviewed as part of broader investigation processes of specific streets or locations in response to issues raised by residents / stakeholders or Council projects such as asset renewal or development applications.*

*In certain circumstances, where additional information may be required, the Administration will apply to SAPOL for a copy of the related crash report(s).*

## 2. Is there a strategy to enhance road safety in the City of Burnside?

*To enhance road safety in the City of Burnside, Council has an endorsed Road and Traffic Management Policy (to be reviewed in 2019) which aims to:*

- *manage the number and speed of vehicles using local roads to reduce the impact on our neighbourhoods and the environment;*
- *manage vehicular movements to improve safety for motorists and pedestrians;*
- *maintain and upgrade infrastructure in accordance with the City's Asset Management Plan and Annual Departmental Business Programs;*
- *maintain safe and efficient levels of street lighting;*
- *utilise data from Council's Traffic Model to assist in planning and managing current and future traffic needs across the City;*
- *consider the directions and goals of the key strategies of Council in developing solutions to address traffic and road related issues; and*
- *ensure that the provisions of services are cost effective and funded by the appropriate party.*

*The Policy outlines Council's commitment to provide a safe environment for all road users and specifies a number of factors to be considered, coupled with professional engineering judgement, to address and prioritise road and transport issues, including:*

- *frequency of crashes resulting in injuries or fatalities;*
- *frequency of property damage only accidents;*
- *actual vehicle speed in comparison to speed limit;*
- *traffic volumes;*
- *residential amenity;*
- *cost benefit ratio of the proposed solution; and*
- *promoting alternatives to the single occupant vehicles.*

*In addition, the Policy also outlines Council's approach to a wide variety of road and traffic related matters with safety specifically addressed within the Policy in relation to:*

- *local area traffic management;*
- *schools and kindergartens;*
- *roadside protection of commercial and non-public use areas;*
- *parking;*
- *roadside mirrors;*
- *driveway and gutter crossings;*
- *temporary road closures; and*
- *mass limits and over-dimensional vehicles on streets.*

**Motions on Notice**

Nil

**Questions without Notice**

Nil

**Motions without Notice**

Nil

**Reports of Officers**

Councillor Lord entered the Chamber at 7.11pm.

**Appointment of ERA Water Board Independent Chair to ERA Water Audit Committee (Operational) (14.3)****Motion**

C11816

1. That the Report be received.
2. That Council approve the appointment of Mr Bryan Jenkins, Independent Chairperson of ERA Water to the ERA Water Audit Committee and Councillor John Minney (City of Norwood Payneham and St Peters) as his proxy, for a two year period, effective from the date of unanimous approval of the Constituent Councils.
3. That the Administration correspond to ERA Water to advise of Council's decision.

Moved Councillor Wilkins, Seconded Councillor Cornish

CARRIED

**Minutes of Audit Committee – 20 August 2018 (Operational) (14.4)****Motion**

C11817

1. That the Minutes of the Audit Committee held on 20 August 2018 be received.
2. That, consistent with resolution A4120 of the Audit Committee, Council correspond with the Brown Hill and Keswick Creeks(BHKC) Stormwater Board requesting that they provide:
  - 2.1 audited financial statements for the 2017/18 financial year to be provided by 21 September 2018, in order for Council to comply with its mandated statutory financial obligations; and
  - 2.2 a schedule of implementation of mandatory governance requirements for regional subsidiaries in line with the *Local Government Act 1999*.
3. That Council note that a response has since been received from the BHKC Stormwater Board which responds in part to this request through the provision of a proposed Business Plan.
4. That Council note that this information, when received in totality, will be presented to Council as per standard practice and requirements for subsidiaries.

Moved Councillor Piggott, Seconded Councillor Davey

CARRIED

**Financial Delegations Policy – Review (Operational) (14.5)****Motion**

C11818

1. That the Report be received.

2. That Council adopt the revised Financial Delegations Policy.

Moved Councillor Piggott, Seconded Councillor Davey

CARRIED

### **Complaint Handling Policy – Review (Operational) (14.6)**

#### **Motion**

C11819

1. That the Report be received.
2. That Council adopt the revised Complaint Handling Policy.

Moved Councillor Cornish, Seconded Councillor Wilkins

CARRIED

### **Appointment of Independent Members to the City of Burnside Audit Committee (Operational) (14.7)**

#### **Motion**

C11820

1. That the Report be received.
2. That Mr David Powell be appointed as Independent Member to the City of Burnside Audit Committee for a period of three years commencing on 23 November 2018 (expiration of current term) and concluding on 23 November 2021.
3. That Mr Stephen Coates be appointed as Independent Member to the City of Burnside Audit Committee for a period for a period of one year from 22 October 2018 until 22 October 2019.
4. That David Powell be appointed as the Chair of the City of Burnside Audit Committee for a further 12 month period commencing in November 2018.
5. That the Administration correspond with all applicants accordingly of this decision.

Moved Councillor Davey, Seconded Councillor Davis

CARRIED

### **Expiation Fee for New By-Laws (Operational) (14.9)**

#### **Motion**

C11821

1. That the Report be received.
2. That, in accordance with Section 246(5) of the *Local Government Act 1999*, Council fix the expiation fee for all alleged offences against Council's:
  - 2.1 Permits and Penalties By-law 2018;
  - 2.2 Moveable Signs By-law 2018;
  - 2.3 Local Government Land By-law 2018;

- 2.4 Roads By-law 2018;
- 2.5 Dogs By-law 2018;
- 2.6 Waste Management By-law 2018; and
- 2.7 Lodging Houses By-law 2018

(as published in the Government Gazette on 6 September 2018) at \$187.50.

Moved Councillor Piggott, Seconded Councillor Lemon CARRIED

### **Chief Executive Officer Report – August 2018 (Operational) (14.1)**

#### **Motion**

C11822

That the Report be received.

Moved Councillor Davey, Seconded Councillor Monceaux CARRIED

### **Amendment to the Burnside War Memorial Hospital Constitution (Operational) (14.2)**

Councillor Davis disclosed a material conflict of interest as set out within section 73 of the *Local Government Act 1999*. Councillor Davis explained that he is a board member, being a member of the governing body, of Burnside War Memorial Hospital, which is a body corporate (Section 73(1) (c) of the *Local Government Act 1999*).

Councillor Davey disclosed a material conflict of interest as set out within section 73 of the *Local Government Act 1999*. Councillor Davey explained that she is a board member, being a member of the governing body, of Burnside War Memorial Hospital, which is a body corporate (Section 73(1) (c) of the *Local Government Act 1999*).

Councillors Davis and Davey left the Chamber at 7.17pm.

#### **Motion**

1. That the Report be received.
2. That Council request that the Board include the following requirements into the Constitution:
  - 2.1 Allowance of Council to appoint members to the board who are not Elected members, should they resolve.
  - 2.2 Changes to the Board fees and allowances to be approved by the Chief Executive Officer of the City of Burnside when required
3. That Council wishes to maintain the controls contained in existing clauses 6.14 and 6.15 but will consider re-drafts of the clauses should BWMH propose them.
4. The Chief Executive Officer prepare a Report for Council setting out a plan for the proactive working with Burnside War Memorial Hospital Board for the appointment of Board members in the future.
5. That the Chief Executive Officer confirm to the Burnside War Memorial Hospital the Council's support for all other amendments to the Constitution.

Moved Councillor Piggott, Seconded Councillor Lemon

LOST

**Motion**

C11823

1. That the Report be received.
2. That the Council approve the proposed amendments to the Burnside War Memorial Hospital Constitution with 7.2c removed and the provisions of former Clause 6.14 of the current Constitution to be included in Clause 5 of the new Constitution to state that amalgamation of the hospital with other entities requires approval of the Council.
3. That the Chief Executive Officer confirm to the Burnside War Memorial Hospital the Council's support for the proposed amendments to the Constitution.

Moved Councillor Ford, Seconded Councillor Monceaux

CARRIED

Councillor Davey and Davis returned to the Chamber and resumed their seats at 8.05pm.

Councillor Piggott left the Chamber at 8.03pm and did not return.

**Application for Additional Loan Facilities (Operational) (14.8)**

**Motion**

C11824

1. That the Report be received.
2. That Council approve an additional credit foncier loan facility of \$1.6m, specifically for the Council approved Public Lighting LED Transition Project, for a period of five years with the Local Government Finance Authority of South Australia.
3. That Council approve an additional credit foncier loan facility of \$2m for a period of 15 years with the Local Government Finance Authority of South Australia, noting that this loan will not impact on Council's financial ratios adopted for 2018/19.
4. That the Mayor and Chief Executive Officer be authorised to sign and affix the Common Seal of the City of Burnside to any document to give effect to the Loan Agreements between the City of Burnside and the Local Government Finance Authority of South Australia.

Moved Councillor Cornish, Seconded Councillor Wilkins

CARRIED

A Division was called by Councillor Ford.

**IN FAVOUR**

Councillor Monceaux  
Councillor Lemon  
Councillor Wilkins  
Councillor Davis  
Councillor Davey  
Councillor Cornish

**AGAINST**

Councillor Bills  
Councillor Lord  
Councillor Ford

The Division resulted in the Motion being

CARRIED

**Subsidiaries, Regional Subsidiaries and other Organisations/Entities****Eastern Waste Management Authority (15.1)**

Nil

**Eastern Health Authority (15.2)**

Nil

**Highbury Landfill Authority (15.3)**

Nil

**ERA Water (15.4)**

Nil

**Eastern Region Alliance (15.5)**

Nil

**Council Correspondence**

Nil

**Other Business****Adjournment of Meeting / Formal Motion**

C11825            That the Council Meeting be adjourned for a refreshment break of 5 minutes and resume on this date 8.25pm.

Moved Councillor Monceaux, Seconded Councillor Lemon

CARRIED

**Resumption**

C11826            That the meeting be resumed at 8.25pm.

Moved Councillor Lemon, Seconded Councillor Wilkins

CARRIED

**Confidential Items****Legal Advice on the Remaking of Confidential Order for Confidential Topic 41.1 – Performance of the Independent Auditor (Operational) (18.1)**

C11827

Pursuant to section 90(2) of the *Local Government Act 1999*, the Council orders that all members of the public, except the Elected Members of the City of Burnside; the Chief Executive Officer; the General Manager Corporate and Development; the General Manager Urban and Community; the Group Manager Finance and Governance; the Principal Executive Officer and the Group Manager People and Innovation, be excluded from attendance at the meeting for Agenda Item 18.1 'Legal Advice on the Remaking of Confidential Order for Confidential Topic 41.1 – Performance Of The Independent Auditor (Operational)'.

The Council is satisfied that, pursuant to section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item contains legal advice on the matter of an existing confidentiality order and its appropriateness to release or otherwise.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because Council needs to be able to maintain privilege in its legal advice.

Moved Councillor Cornish, Seconded Councillor Davis

CARRIED

**Motion**

C11828

1. That the Report be received.
2. That the Consultancy Agreement as between the Council and HLB Mann Judd dated 11 April 2012 be released from the order of confidentiality and made publicly available.
3. That the Letter from Mr Corey McGowan, Partner, HLB Mann Judd, dated 13 February 2012, be released from the order of confidentiality and made publicly available.
4. That the Tender Document SVS0666 from HLB Mann Judd dated, 13 February 2012, be released from the order of confidentiality and made publicly available.
5. That the Audit Committee Report for Agenda Item 6.1, with the title "Performance of Independent Auditor", be retained in confidence, save for the attachments referred to at 2 – 4 above.
6. That the portion of the Audit Committee Meeting Minutes of 5 February 2014 pertaining to Agenda item 6.1 be released from the order of confidentiality and made publicly available.

Moved Councillor Ford, Seconded Councillor Cornish

CARRIED

**Confidentiality Recommendation**

C11829

1. That, having considered the matter in confidence, pursuant to section 91(7) and (9) of the *Local Government Act 1999*, the Council orders that:

- 1.1 the report, attachments, and audio recording relating to this Agenda item remain confidential on the basis that the disclosure of this information would involve the disclosure of legal advice pursuant to section 90(3)(h) of the *Local Government Act 1999*; and
  - 1.2 the report, attachments, and audio recording and audio recording will not be available for public inspection for the period of two years at which time this order will be reviewed by the Council; and
  - 1.3 this confidentiality order will be reviewed by the Council at least once in every 12 month period.
2. That for the item named in clause 1 and associated sub clauses, unless:
- 2.1 the period in respect of any order made under Section 91(7) of the *Local Government Act 1999* lapses; or
  - 2.2 Council resolves to revoke an order made under Section 91(7) of the *Local Government Act 1999*;
- any discussions of Council on the matter and any recording of those discussions are also confidential.

Moved Councillor Wilkins, Seconded Councillor Cornish

CARRIED

**Chief Executive Officer Performance Review and Remuneration Review 2017/2018 (Operational) (18.2)**

The Chief Executive Officer left the Chamber at 8.37pm.

The General Manager Urban and Community left the Chamber at 8.38pm.

C11830

Pursuant to section 90(2) of the *Local Government Act 1999*, the Committee orders that all members of the public, with the exception of the Elected Members of the City of Burnside, the Chief Executive Officer; the General Manager Corporate and Development; the General Manager Urban and Community; the Principal Executive Officer and the Group Manager People and Innovation, be excluded from attendance at the meeting for Agenda Item 18.2 'Chief Executive Officer Performance Review and Remuneration Review 2017/2018'.

The Council is satisfied that, pursuant to section 90(3)(a) of the Act, that the information to be received, discussed or considered in relation to this Agenda Item is information that would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead). The information concerns the remuneration and performance review of the Chief Executive Officer and their personal attributes and the release of such information is unreasonable at this point in time.

Further, the principle that the meeting should be conducted in a place open to the public has been outweighed in the circumstances because of the public interest in maintaining the confidentiality of the personal affairs of these persons.

Moved Councillor Davis, Seconded Councillor Cornish

CARRIED

**Motion**

C11831

1. That the Report be received.
2. That the Hender Chief Executive Officer (CEO) Performance Appraisal July 2018 Report and Hender CEO Remuneration Advice July 2018 Report be received.
3. That Council note the recommendations and findings in the Hender CEO Performance Appraisal July 2018 Report and Hender CEO Remuneration Advice July 2018 Report.
4. That Council, consistent with the recommendation of the CEO Recruitment, Performance Appraisal and Remuneration Review Committee (Committee), and further to the request from the CEO, offer the CEO a 2 per cent increase to the total TEC package, effective from 1 July 2018, noting this is consistent with recent increases provided to staff of the Administration.

Moved Councillor Davis, Seconded Councillor Wilkins

CARRIED

**Confidentiality Recommendation**

C11832

1. That, having considered the matter in confidence, pursuant to section 91(7) and (9) of the *Local Government Act 1999*, the Council orders that:
  - 1.1 the report, attachment and audio recording relating to this agenda item remain confidential on the basis that the disclosure of this information would involve the unreasonable disclosure of information concerning the personal affairs of any

