

**MINUTES OF CITY OF MOUNT GAMBIER  
SPECIAL COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT  
GAMBIER  
ON TUESDAY, 3 MARCH 2020 AT 6.15 P.M.**

**PRESENT:** Mayor Lynette Martin (OAM), Cr Sonya Mezinec, Cr Max Bruins, Cr Christian Greco, Cr Ben Hood, Cr Paul Jenner, Cr Frank Morello, Cr Steven Perryman

**COUNCIL OFFICERS:** Chief Executive Officer - Mr A Meddle  
Manager Executive Administration - Mr M McCarthy  
Communications Officer - Mrs A Watson

**1 ACKNOWLEDGEMENT OF COUNTRY**

**WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.**

**2 APOLOGIES**

**RESOLUTION 2020/70**

Moved: Cr Paul Jenner

Seconded: Cr Christian Greco

That the apology from Cr Kate Amoroso be received

**CARRIED**

**3 COUNCIL REPORTS**

**3.1 ITEM 2 - COMMUNITY AND RECREATION HUB - REQUEST FOR REPORT ON TIMING OF ADVICE ON TENDER OUTCOMES**

**MOTION**

Moved: Cr Steven Perryman

1. That Council Report No. AR20/14667 titled 'Item 2 - Community and Recreation Hub - Request for Report on Timing of Advice on Tender Outcomes' as presented on 03 March 2020 be noted.
2. The CEO provide a written report to Council explaining the reasons and issues which caused him to delay providing prompt advice to Councilors via briefing, memo, report or other means, of the outcomes of the tender for the Regional Recreation and Sports Centre project.



After taking into account the Guiding Principles the Mayor refused to accept the Motion, in accordance with R12 (6) on the basis that it should be dealt with by way of a written Notice of Motion.

### **3.2 ITEM 3 - COMMUNITY AND RECREATION HUB - REQUEST FOR REASONS FOR TENDER DEADLINE EXTENSION**

#### **MOTION**

Moved: Cr Steven Perryman

1. That Council Report No. AR20/14677 titled 'Item 3 - Community and Recreation Hub - Request for Reasons for Tender Deadline Extension' as presented on 03 March 2020 be noted.
2. The CEO provide a detailed written memo to Councilors explaining the reasons for council administration extending deadline of Regional Recreation and Sports Centre tender process on two occasions, including details of who made the decision, under what delegated authority the decision was made, and why a Council meeting or Regional Sport and Recreation Centre Committee meeting was not called to deal with the issue of extending the tender timelines. This report to be provided to Councilors by 5.00 p.m. on Wednesday 4<sup>th</sup> March 2020.

After taking into account the Guiding Principles the Mayor refused to accept the Motion, in accordance with R12 (6) on the basis that it should be dealt with by way of a written Notice of Motion.

Item 3.3 was discussed after Item 4.2

### **3.3 ITEM 5 - COMMUNITY AND RECREATION HUB - REQUEST FOR CEO MEMO ON MATTERS LISTED IN ITEM 4**

#### **MOTION**

Moved: Cr Paul Jenner

1. That Council Report No. AR20/14689 titled 'Item 5 - Community and Recreation Hub - Request for CEO Memo on matters listed in Item 4' as presented on 03 March 2020 be noted.
2. The CEO distribute a memo to Councilors providing a detailed written summary to the matters in tem 4) above by 5 pm Wednesday 4<sup>th</sup> March.

After taking into account the Guiding Principles the Mayor refused to accept the Motion, in accordance with R12 (6) on the basis that it should be dealt with by way of a written Notice of Motion.



## 4 NEW CONFIDENTIAL ITEMS

### 4.1 ITEM 1 - COMMUNITY AND RECREATION HUB - REQUEST FOR SUMMARY LISTING OF COMPANY NAMES AND TENDER PRICES – REPORT NO. AR20/14664

#### RESOLUTION 2020/71

Moved: Cr Sonya Mezinec

Seconded: Cr Max Bruins

#### CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Mezinec, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers A Meddle, M McCarthy and A Watson be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 4.1 AR20/14664 Item 1 - Community and Recreation Hub - Request for summary listing of company names and tender prices.

The Council is satisfied that, pursuant to section 90(3) (b), (d) and (g) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is
  - conducting business; or
  - proposing to conduct business; or
  - to prejudice the commercial position of the Council
- commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected:
  - to prejudice the commercial position of the person who supplied the information, or
  - to confer a commercial advantage on a third party
- information concerning matters that must be considered in confidence in order to ensure that the Council does not:
  - breach any law, order or direction of a court or tribunal constituted by law,
  - breach any duty of confidence, or
  - breach any other legal obligation or duty

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 the matter to be discussed is the subject of a tender process that is still under assessment and to which stringent confidentiality provisions have been applied to ensure integrity of the procurement process thus creating a duty of confidence in related matters.

The premature disclosure of information associated with the tender could reasonably be expected to prejudice the integrity of the procurement process.

Further, the premature discussion and potential disclosure of information arising from tenderer submissions could reasonably be expected to include information of a commercial and/or confidential nature the release of which could prejudice the commercial position of the Council as the principal in the procurement process.

The public interest in the public disclosure of such information is considered to be outweighed by the public benefit of the project the subject of this matter, which project and/or project timing could be put at risk by any material factors that could undermine the integrity of the procurement process.

**CARRIED**

**RESOLUTION 2020/72**

Moved: Cr Sonya Meziniec  
Seconded: Cr Max Bruins

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 4.1 AR20/14664 Item 1 - Community and Recreation Hub - Request for summary listing of company names and tender prices and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (b), (d) and (g) be kept confidential and not available for public inspection until the relevant tender(s) associated with the Regional Sport and Recreation Project have been considered and determined by the Council, or 2 years, whichever is the earlier.
2. Further that Council delegates the power to review, revoke, but not extension of the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**



**4.2 ITEM 4 - COMMUNITY AND RECREATION HUB - REQUEST FOR VERBAL UPDATE  
- SEVERAL MATTERS – REPORT NO. AR20/14687**

**RESOLUTION 2020/73**

Moved: Cr Frank Morello  
Seconded: Cr Sonya Mezinac

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Mezinac, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers A Meddle, M McCarthy and A Watson be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 4.2 AR20/14687 Item 4 - Community and Recreation Hub - Request for Verbal Update - Several Matters.

The Council is satisfied that, pursuant to section 90(3) (b) and (g) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is
  - conducting business; or
  - proposing to conduct business; or
  - to prejudice the commercial position of the Council
- information concerning matters that must be considered in confidence in order to ensure that the Council does not:
  - breach any law, order or direction of a court or tribunal constituted by law,
  - breach any duty of confidence, or
  - breach any other legal obligation or duty

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 the matters to be discussed includes information subject to existing order of confidentiality made by Council the disclosure of which would be a breach of Council's own confidence.

Further, matters to be raised include procurements which are the subject of tender processes that are yet to be completed. The premature disclosure of information associated with such procurements could reasonably be expected to prejudice the commercial position of the Council.

The public interest in the disclosure of such information is considered to be outweighed by the public benefit of achieving a beneficial outcomes from the procurement processes.

**CARRIED**



**RESOLUTION 2020/74**

Moved: Cr Max Bruins  
Seconded: Cr Sonya Meziniec

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 4.2 AR20/14687 Item 4 - Community and Recreation Hub - Request for Verbal Update - Several Matters and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (b) and (g) be kept confidential and not available for public inspection until 31 December 2021.
2. Further that Council delegates the power to review, revoke, but not extension of the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**

**4 MEETING CLOSE**

**The Meeting closed at 6.40 p.m.**

**The minutes of this meeting were confirmed at the Ordinary Meeting of the City of Mount Gambier held on 17 March 2020.**

.....  
**PRESIDING MEMBER**

