



**MINUTES OF THE WAVERLEY EXTRAORDINARY COUNCIL MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 7 FEBRUARY 2017**

Present:

Councillor Sally Betts (Mayor) (Chair)	Hunter Ward
Councillor Tony Kay (Deputy Mayor)	Waverley Ward
Councillor Angela Burrill	Lawson Ward
Councillor Joy Clayton	Bondi Ward
Councillor Andrew Cusack	Lawson Ward
Councillor Leon Goltsman	Hunter Ward
Councillor Miriam Guttman-Jones	Hunter Ward
Councillor Paula Masselos	Lawson Ward
Councillor Bill Mouroukas	Waverley Ward
Councillor Ingrid Strewé	Waverley Ward
Councillor John Wakefield	Bondi Ward
Councillor Dominic Wy Kanak	Bondi Ward

Staff in attendance:

Peter Brown	General Manager
Cathy Henderson	Director, Waverley Life
Peter Monks	Director, Waverley Futures
Emily Scott	Director, Waverley Renewal
Richard Coelho	Acting Internal Ombudsman

At the commencement of proceedings at 6.30 pm, those present were as listed above, with the exception of Cr Wakefield, who arrived at 6.32 pm.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Mayor read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.

1. Apologies/Leaves of Absence

There were no apologies.

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and none were received.

3. Addresses to Council by Members of the Public

There were no addresses to Council.

4. Notices of Motion**CM/4.1/17.02E Opposition to Council Merger (A16/0054)****MOTION:**

Mover: Cr Strewe

Seconder: Cr Masselos

That Council calls on the new Minister for Local Government and Member for Vaucluse Ms Gabrielle Upton to recognise Waverley Council's opposition to a merger and its strong financial position and to reject plans to merge Waverley, Woollahra and Randwick Councils.

AT THIS STAGE IN THE PROCEEDINGS, THE FOLLOWING PROCEDURAL MOTION WAS MOVED BY CR KAY AND SECONDED BY CR BETTS:

That debate on the current item CM/4.1/17.02E be adjourned until the following criteria have been met, at which point the matter is to be placed on the earliest Council meeting agenda, noting that Waverley Council's position has always been that the preferred option is to stand alone:

1. The Government has formally announced a change in their position on reform of Local Government and Council amalgamations,
2. The High Court has ruled on Woollahra's application to seek leave for an Appeal or the legal case is withdrawn, and

3. If the High Court grants Woollahra leave to appeal, when the High Court hands down its final judgement on that appeal.

A FURTHER PROCEDURAL MOTION WAS MOVED BY CR WAKEFIELD AND SECONDED BY CR WY KANAK AS FOLLOWS:

That the procedural motion to adjourn the debate lay on the table until such time as the General Manager provides the legal advice he obtained today.

AT THIS STAGE IN PROCEEDINGS, A MOTION TO ADJOURN THE MEETING FOR A SHORT PERIOD, MOVED BY CR BETTS AND SECONDED BY CR GOLTSMAN, WAS PUT AND DECLARED CARRIED.

At 6.51 pm, the meeting was adjourned.

At 6.56 pm, the meeting resumed.

UPON THE RESUMPTION OF THE MEETING, THE MOTION TO LAY THE PROCEDURAL MOTION ON THE TABLE WAS PUT AND DECLARED LOST.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewé, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

AT THIS STAGE IN THE PROCEEDINGS, CR WAKEFIELD MOVED A MOTION OF DISSENT ON THE CHAIR'S RULING THAT THE PROCEDURAL MOTION MOVED BY CR KAY, SECONDED BY CR BETTS, IS VALID.

THE MOTION OF DISSENT WAS PUT AND DECLARED LOST.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewé, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

THE FOLLOWING PROCEDURAL MOTION WAS THEN MOVED BY CR WY KANAK AND SECONDED BY CR MASSELOS:

That the debate on the current item be adjourned until all Councillors have had the opportunity to read a copy of the legal advice provided to them by the General Manager during the meeting adjournment.

THE PROCEDURAL MOTION WAS PUT AND DECLARED LOST.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewé, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

CR KAY AND CR BETTS, AS MOVER AND SECONDER OF THE ORIGINAL PROCEDURAL MOTION, THEN ACCEPTED AN AMENDMENT TO THE MOTION SUCH THAT IT NOW READS AS FOLLOWS:

That debate on the current item CM/4.1/17.02E be adjourned until the following criteria have been met, at which point the matter is to be placed on the earliest Council meeting agenda, or no later than 1 September 2017, whichever is the earlier, noting that Waverley Council's position has always been that the preferred option is to stand alone:

1. The Government has formally announced a change in their position on reform of Local Government and Council amalgamations,

2. The High Court has ruled on Woollahra's application to seek leave for an Appeal or the legal case is withdrawn, and
3. If the High Court grants Woollahra leave to appeal, when the High Court hands down its final judgement on that appeal.

AT THIS STAGE IN THE PROCEEDINGS, CR WAKEFIELD RAISED A POINT OF ORDER THAT THE PROCEDURAL MOTION IS OUT OF ORDER ON THE GROUNDS THAT IT IS A BREACH OF COUNCIL'S CODE OF MEETING PRACTICE TO MOVE AN ADJOURNMENT OF THE DEBATE ON AN ITEM.

THE CHAIR RULED THAT THE PROCEDURAL MOTION IS IN ORDER BASED ON THE ADVICE RECEIVED BY THE GENERAL MANAGER.

CR WY KANAK THEN MOVED A MOTION OF DISSENT ON THE THE CHAIR'S RULING, SECONDED BY CR WAKEFIELD, THAT IT IS LEGALLY VALID UNDER COUNCIL'S CURRENT CODE OF MEETING PRACTICE TO ADJOURN THE DEBATE ON AN ITEM.

THE MOTION OF DISSENT WAS PUT AND DECLARED LOST.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewe, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

CR KAY AND CR BETTS, AS MOVER AND SECONDER OF THE ORIGINAL PROCEDURAL MOTION, THEN ACCEPTED A FURTHER AMENDMENT TO THE MOTION SUCH THAT IT NOW READS AS FOLLOWS:

That debate on the current item CM/4.1/17.02E be adjourned until the following criteria have been met, at which point the matter is to be placed on the earliest Council meeting agenda, or the agenda for its meeting at 6.30 pm on 15 August 2017 at Waverley Council Chambers, whichever is earlier, noting that Waverley Council's position has always been that the preferred option is to stand alone:

1. The Government has formally announced a change in their position on reform of Local Government and Council amalgamations,
2. The High Court has ruled on Woollahra's application to seek leave for an Appeal or the legal case is withdrawn, and
3. If the High Court grants Woollahra leave to appeal, when the High Court hands down its final judgement on that appeal.

A MOTION THAT THE PROCEDURAL MOTION AS AMENDED BE NOW PUT, MOVED BY CR CUSACK, WAS PUT AND DECLARED CARRIED ON THE CASTING VOTE OF THE CHAIR.

Division

For the Motion: Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

Against the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewe, Wakefield and Wy Kanak.

THE PROCEDURAL MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED ON THE CASTING VOTE OF THE CHAIR.

Division

For the Motion: Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

Against the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewe, Wakefield and Wy Kanak.

DECISION:

That debate on the current item CM/4.1/17.02E be adjourned until the following criteria have been met, at which point the matter is to be placed on the earliest Council meeting agenda, or the agenda for its meeting at 6.30 pm on 15 August 2017 at Waverley Council Chambers, whichever is earlier, noting that Waverley Council's position has always been that the preferred option is to stand alone:

1. The Government has formally announced a change in their position on reform of Local Government and Council amalgamations,
2. The High Court has ruled on Woollahra's application to seek leave for an Appeal or the legal case is withdrawn, and
3. If the High Court grants Woollahra leave to appeal, when the High Court hands down its final judgement on that appeal.

5. Closed Session**CM/5/17.02E Closed Session**

Before the motion to close the meeting was put, the Chair provided an opportunity for members of the public to make representations as to whether this part of the meeting should be closed. None were received.

MOTION / DECISION

Mover: Cr Kay
Seconder: Cr Mouroukas

That:

1. Council moves into closed session to deal with the matters listed below, which are classified as confidential under the provisions of section 10A(2) of the *Local Government Act 1993* for the reasons specified:

CM/5.1/17.02E CONFIDENTIAL REPORT - Resignation of General Manager

This matter is considered to be confidential in accordance with section 10A(2)(a) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with personnel matters concerning particular individuals.

2. Pursuant to section 10A(1), 10(2) and 10A(3) of the *Local Government Act 1993*, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of section 10A(2) of the *Local Government Act 1993*.
3. The correspondence and reports relevant to the subject business be withheld from the media and public as provided by section 11(2) of the *Local Government Act 1993*.

At 8.05 pm, Council moved into closed session.

CM/5.1/17.02E CONFIDENTIAL REPORT - Resignation of General Manager (P13/080)**MOTION / DECISION**

Mover: Cr Betts
Seconder: Cr Wakefield

That Council:

1. Treats this report as confidential in accordance with section 11(3) of the *Local Government Act 1993*, as it relates to a matter specified in section 10A(2)(a) of the *Local Government Act 1993*. The report contains personnel matters concerning particular individuals.
2. Accepts the resignation of Peter Brown as General Manager, effective 5 pm February 15, 2017.
3. Appoints Cathy Henderson as Acting General Manager of Council for a period up to 6 months from 5 pm on February 15, 2017 on the same Total Remuneration Package as agreed for Peter Brown.
4. Delegates to Cathy Henderson, as Acting General Manager of Council, or to the person acting in the position of General Manager during any period of absence from duty of Cathy Henderson, all of the powers and functions of the Council that it may under any Act of Parliament lawfully delegate, other than the functions prescribed in s 377(1) of the *Local Government Act 1993*, which may not be delegated, effective from 5 pm, 15 February, 2017, subject to the limitations set out in the Instrument of Delegation attached to this report.
5. Considers a further report on the process for the permanent filling of the position of General Manager once there is further clarity around the direction of current local government reform processes.

6. Resuming in Open Session**CM/6/17.02E Resuming in Open Session****MOTION / DECISION**

Mover: Cr Goltsman
Seconder: Cr Kay

That Council resumes in open session.

At 8.15 pm, Council resumed in open session.

Resolutions from closed session made public

In accordance with clause 253 of the Local Government (General) Regulation 2005, when the meeting resumed in open session the Chair announced the resolutions made by Council, including the names of the movers and seconders, while the meeting was closed to members of the public and the media.

7. Meeting Closure

THE MEETING CLOSED AT 8.15 PM.

.....
SIGNED AND CONFIRMED
MAYOR
21 FEBRUARY 2017