



City of Belmont

EXECUTIVE COMMITTEE

MINUTES

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29 April 2019

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Confidential Attachment 5 – Item 11.3 refers

<p>*** COUNCILLORS ARE REMINDED TO RETAIN THEIR ATTACHMENTS FOR DISCUSSION WITH THE MINUTES ***</p>
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MINUTES

PRESENT

Cr P Marks, Mayor (Presiding Member)	East Ward
Cr R Rossi, JP, Deputy Mayor	West Ward
Cr J Powell	South Ward
Cr S Wolff	South Ward
Cr G Sekulla, JP	West Ward

IN ATTENDANCE

Mr J Christie (<i>arr 6.45pm</i>)	Chief Executive Officer
Ms AM Forte	Executive Manager People and Organisational Development
Mr J Olynyk, JP (<i>dep 6.43pm and did not return</i>)	Manager Governance

GUEST

Mr Paul Syme (<i>dep 8.35pm and did not return</i>)	Portland Broome, Organisational Consultants
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1. OFFICIAL OPENING

The Presiding Member opened the meeting at 6.32pm, welcomed those in attendance, and read the Acknowledgement of Country.

Before I begin I would like to acknowledge the traditional owners of the land on which we are meeting today, the Noongar Whadjuk people, and pay respect to Elders past, present and future leaders.

2. APOLOGIES AND LEAVE OF ABSENCE

Nil.

3. DECLARATIONS OF INTEREST THAT MIGHT CAUSE A CONFLICT

3.1 FINANCIAL INTERESTS

Nil.

3.2 DISCLOSURE OF INTEREST THAT MAY AFFECT IMPARTIALITY

Nil.

4. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

4.1 ANNOUNCEMENTS

Nil.

4.2 DECLARATIONS BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTLY BEFORE THE MEETING

Nil.

5. CONFIRMATION OF MINUTES

**5.1 EXECUTIVE COMMITTEE MEETING HELD 13 AUGUST 2018
(Circulated under separate cover)**

ROSSI MOVED, WOLFF SECONDED

That the Minutes of the Executive Committee Meeting held on 13 August 2018 be confirmed as a true and accurate record.

CARRIED 5 VOTES TO 0

**6. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN
(WITHOUT DISCUSSION)**

Nil.

**7. NEW BUSINESS OF AN URGENT NATURE APPROVED BY PERSON
PRESIDING OR BY DECISION**

Nil.

8. QUESTIONS BY MEMBERS WITHOUT NOTICE

Nil.

9. BUSINESS ADJOURNED FROM A PREVIOUS MEETING

Nil.

10. INFORMATION ITEMS

Nil.

11. ITEMS REQUIRING RECOMMENDATION TO COUNCIL

11.1 TERMS OF REFERENCE FOR THE EXECUTIVE COMMITTEE

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1 – Item 11.1 refers	Revised Terms of Reference – Executive Committee 2019 with Track Changes
Attachment 2 – Item 11.1 refers	Revised Terms of Reference – Executive Committee 2019

Voting Requirement : Simple Majority
Subject Index : 154/007: Standing Committees
Location/Property Index : N/A
Application Index : N/A
Disclosure of any Interest : Nil
Previous Items : N/A
Applicant : N/A
Owner : N/A
Responsible Division : Corporate and Governance

COUNCIL ROLE

- ☐ **Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- ☒ **Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- ☐ **Legislative** *Includes adopting local laws, local planning schemes and policies.*
- ☐ **Review** *When Council reviews decisions made by Officers.*
- ☐ **Quasi-Judicial** *When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

To present revised Terms of Reference for the Executive Committee (refer [Attachments 1 and 2](#)) to Council for endorsement.

SUMMARY AND KEY ISSUES

To revise and update the Terms of Reference for the Executive Committee.

Item 11.1 Continued

LOCATION

Not applicable.

CONSULTATION

Consultation was undertaken with the Executive Manager People and Organisational Development and the Chief Executive Officer in respect to this matter.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the Strategic Community Plan Key Result Area: Business Excellence Belmont.

Objective: Achieve excellence in the management and operation of the local government.

Strategy: Ensure decision making is supported by effective information and knowledge management.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

The Executive Committee assists Council to undertake its duties in relation to sections 5.38 and 5.39 of the *Local Government Act 1995* and Regulations 18C and 18D of the *Local Government (Administration) Regulations 1996*.

Local Government Act 1995

5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

5.39. Contracts for CEO and senior employees

(1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.

(1a) Despite subsection (1) —

- (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and*
- (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.*

Item 11.1 Continued

- (2) *A contract under this section —*
 - (a) *in the case of an acting or temporary position, cannot be for a term exceeding one year;*
 - (b) *in every other case, cannot be for a term exceeding 5 years.*
- (3) *A contract under this section is of no effect unless —*
 - (a) *the expiry date is specified in the contract; and*
 - (b) *there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and*
 - (c) *any other matter that has been prescribed as a matter to be included in the contract has been included.*
- (4) *A contract under this section is to be renewable and subject to subsection (5), may be varied.*
- (5) *A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.*
- (6) *Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.*
- (7) *A CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7A.*
- (8) *A local government is to ensure that subsection (7) is complied with in entering into, or renewing, a contract of employment with a CEO.*

[Section 5.39 amended by No. 49 of 2004 s. 46(1)-(3); No. 2 of 2012 s. 13 (correction to reprint in Gazette 28 Mar 2013 p. 1317).]

Local Government (Administration) Regulations 1996

18C. Selection and appointment process for CEOs

The local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.

[Regulation 18C inserted in Gazette 31 Mar 2005 p. 1038.]

18D. Performance review of CEO, local government's duties as to

A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

[Regulation 18D inserted in Gazette 31 Mar 2005 p. 1038.]

Item 11.1 Continued

BACKGROUND

At the 27 July 2010 Ordinary Council Meeting, Council undertook a review of the City of Belmont Committee structure. As part of the review, the Standing Committee (Community Capacity), now referred to as the Standing Committee (Community Vision) was created and as a result of the creation of the Standing Committee (Community Capacity), the scope of the Terms of Reference and membership structure of the Executive Committee was amended. Council resolved:

MARKS MOVED, ROSSI SECONDED

2. *That membership of the Executive Committee be amended to include the Mayor as the Presiding Member, the Deputy Mayor as Deputy Presiding Member and also consist of the Presiding Members of each of the three Standing Committees (With their respective Deputy Presiding Members acting as Proxy's).*
3. *That the Terms of Reference be modified to read as follows;*

Terms of Reference:

- *The Executive Committee is responsible for making recommendations to Council on Chief Executive Officer appointments/performance reviews.*
- *Assessment and actioning of complaints against the Chief Executive Officer, Councillors and the Mayor as prescribed in Council's Complaints Management Procedure.*

CARRIED 10 VOTES TO 1

Against: Hitt

The current Executive Committee Terms of Reference are:

The Executive Committee is responsible for making recommendations to Council on Chief Executive Officer (CEO) appointments, contract reviews/renewals, performance and remuneration reviews and assessments and the actioning of complaints against the CEO, Councillors and the Mayor as prescribed in Council's Complaints Management Procedure.

The Committee is a formally appointed committee of Council and is responsible to that body. The Committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility and does not have any delegated power from Council. The Committee does not have any management functions and cannot involve itself in management processes or procedures.

The Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate informed decision making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.

Item 11.1 Continued

OFFICER COMMENT

The revised Executive Committee Terms of Reference are included in [Attachment 1](#) (showing the track changes) and [Attachment 2](#) (without the track changes).

Terms of Reference for all City of Belmont Standing Committees are currently being reviewed and updated to ensure consistency.

A revision to the Executive Committee Terms of Reference is pertinent to ensure consistency with the Terms of Reference of all City of Belmont Standing Committees and to provide guidance on the purpose and objectives of the Executive Committee.

The revised Terms of Reference provide clear guidance on the purpose and objectives of the Executive Committee and the duties and responsibilities of Committee members.

The content has been amended from the current Terms of Reference, however it does not substantively change the current role performed by the Committee.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

ROSSI MOVED, SEKULLA SECONDED.

OFFICER RECOMMENDATION

That the Executive Committee recommends that Council endorse the revised Terms of Reference for the Executive Committee (refer [Attachment 2](#)).

CARRIED 5 VOTES TO 0

6.43pm **SEKULLA MOVED, ROSSI SECONDED,** *That in accordance with Section 5.23(2)(b)(e) of the Local Government Act 1995, the meeting go behind closed doors. With the exception of the Facilitator, Mr Paul Syme all other officers are to leave the meeting.*

CARRIED 5 VOTES TO 0

6.43pm The Manager Governance departed the meeting and did not return.

6.43pm The Executive Manager People and Organisational Development departed the meeting.

6.45pm The Presiding Member requested that the Chief Executive Officer be invited to join the meeting for discussion.

6.45pm The Chief Executive Officer entered the meeting.

11.2 STAFF MATTER - CHIEF EXECUTIVE OFFICER - INTERIM REVIEW 2018-2019
(CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995*
SECTION 5.23 (2) (A) (B) (C) (E))

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Confidential Attachment 1–Item 11.2 refers	<u>Chief Executive Officer – John Christie Performance Management Interim Review Submission 2018-2019</u>
Confidential Attachment 4 – Item 11.2 refers	<u>Chief Executive Officer – Interim Review 2018-2019 Report</u>

8.00pm The Chief Executive Officer departed the meeting.

ROSSI MOVED, POWELL SECONDED,

OFFICER RECOMMENDATION

That Council note the information provided by the Chief Executive Officer on interim progress against the Goals and Targets set by Council for the Officer for the 2018-2019 review year, as indicated in [Confidential Attachment 1](#).

CARRIED 5 VOTES TO 0

8.35pm Mr P Syme departed the meeting and did not return.

8.35pm The Presiding Member requested that the Chief Executive Officer and the Executive Manager People and Organisational Development be invited to join the meeting for discussion.

8.35pm The Chief Executive Officer and Executive Manager People and Organisational Development returned to the meeting.

- 11.3 STAFF MATTER – CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE APPRAISAL PROCESS REVIEW (CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995* SECTION 5.23 (2) (B) (E))

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Confidential Attachment 2 –Item 11.3 refers	Process Map – CEO Performance Appraisal Process - Current
Confidential Attachment 3 –Item 11.3 refers	Process Map – CEO Performance Appraisal Process - Proposed
Confidential Attachment 5 – Item 11.3 refers	Chief Executive Officer Annual Performance Appraisal Process Review Report

POWELL MOVED, WOLFF SECONDED,

OFFICER RECOMMENDATION

That Council approve arrangements for the Chief Executive Officer Performance Appraisal process as detailed in Option 1 as contained within the confidential report.

CARRIED 5 VOTES TO 0

8.55pm ROSSI MOVED, SEKULLA SECONDED, *That the meeting be opened again and Council Officers be invited to rejoin the meeting.*

CARRIED 5 VOTES TO 0

12. NEXT MEETING

The next meeting of the Executive Committee will be held on **Monday, 12 August 2019** commencing at 6.30pm.

13. CLOSURE

There being no further business, the Presiding Member thanked everyone for their attendance and closed the meeting at 8.55pm.

MINUTES CONFIRMATION CERTIFICATION

The undersigned certifies that these minutes of the Executive Committee Meeting held 29 April 2019 were confirmed as a true and accurate record at the Executive Committee Meeting held 19 August 2019:

Signed by the Person Presiding: 

PRINT name of the Person Presiding: **PHILIP MARKS**
