

MINUTES

Extraordinary Council Meeting

Monday, 11 February 2019

Council Chambers, Civic Centre, Hurstville



GEORGES RIVER COUNCIL

Present

Council Members

The Mayor, Councillor Kevin Greene, Deputy Mayor, Councillor Sam Elmir, Councillor Kathryn Landsberry, Councillor Stephen Agius, Councillor Vince Badalati, Councillor Sandy Grekas, Councillor Con Hindi, Councillor Rita Kastanias, Councillor Nick Katris, Councillor Lou Konjarski, Councillor Nancy Liu, Councillor Leesha Payor, Councillor Colleen Symington and Councillor Christina Wu

Council Staff

General Manager - Ms Gail Connolly, Director Assets and Infrastructure - Mr Laurie O'Connor, Director Environment and Planning - Ms Meryl Bishop, Director Community and Culture - Ms Rebekah Schulz, Director Business and Corporate Services - Mr David Tuxford, General Counsel - Ms Jenny Ware, Director City Strategy and Innovation - Ms Sue Weatherley, Manager, Office of the General Manager - Ms Roxanne Thornton, Head of Executive Services - Ms Jennifer Anderson and Casual Executive Services Officer – Ms Catherine Jones

Opening

The Mayor, Councillor Kevin Greene, opened the meeting at 7.31pm.

The Mayor, Councillor Kevin Greene, acknowledged the traditional custodians of the land, the Bidjegal people of the Eora Nation.

Apologies

RESOLVED: Councillor Landsberry and Councillor Konjarski

That apologies for Councillor Tegg be accepted.

Record of Voting:

For the Motion: Unanimous

Disclosure of Interest

The Mayor, Councillor Greene declared a non-significant, non-pecuniary interest in Item CCL002A-19 and Item CCL004A-19 for the reasons that;

1. In 1985 he coached Stephen Brell, whilst teaching at Penshurst Marist College. Stephen is currently the Director of Netstrata.
2. He taught Darren Kane over 30 years ago, when he was in year 6. Darren is currently the solicitor for Netstrata.
3. When he was Minister for Sport, he met with Colin Love in his capacity as Chair of Australian Rugby League.
4. He ran Business Breakfasts in his capacity as State Member which Norman Sarraf attended.
5. Chris O'Keefe from 9 News Australia, some years ago had a friendship with his daughter.

Councillor Symington declared a non-significant, non-pecuniary interest in Item CCL002A-19 and Item CCL004A-19 for the reason that the owners' corporation of her apartment building have employed Netstrata to manage the building.

Councillor Konjarski declared a non-significant, non-pecuniary interest in Item CCL002A-19 and CCL004A-19 for the reason that Netstrata manage a strata plan he has an interest in.

Consideration of Business in Closed Session

RESOLVED: Councillor Katris and Councillor Grekas

At this stage of the meeting, being 7.35pm, the Mayor advised that the meeting would move into Confidential Session to allow consideration of a matter in Closed Session in accordance with Section 10A of The Local Government Act 1993. Accordingly, members of the press and public are excluded from the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session will be withheld.

This action was taken to allow discussion of the following items:

CCL002A-19 Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf
(Report by Director Legal Services and General Counsel)

THAT in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act 1993, the matters dealt with in this report be considered in closed Council Meeting at which the press and public are excluded. In accordance with Section 10A(2) (g) it is considered the matter contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

THAT in accordance with Section 10D it is considered that if the matter were discussed in an open Council Meeting, it would on balance, be contrary to the public interest as it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

CCL004A-19 Supplementary Report - Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf
(Report by Director Legal Services and General Counsel)

THAT in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act 1993, the matters dealt with in this report be considered in closed Council Meeting at which the press and public are excluded. In accordance with Section 10A(2) (g) it is considered the matter contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

THAT in accordance with Section 10D it is considered that if the matter were discussed in an open Council Meeting, it would on balance, be contrary to the public interest as it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

These matters will be considered in Closed Session in accordance with Section 10A(2)(g) of the Local Government Act 1993 as it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Mayor asked if there were any members of the public gallery who would like to speak on the reasons Council proposes to consider the items in Closed Session.

There were none.

Record of Voting:

For the Motion: Unanimous

CLOSED SESSION

Consideration of Confidential Recommendations

CCL002A-19 Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf

(Report by Director Legal Services and General Counsel)

Note: The Mayor Councillor Greene declared a non-significant, non-pecuniary interest in this item.

Note: Councillor Symington declared a non-significant, non-pecuniary interest in this item.

Note: Councillor Konjarski declared a non-significant, non-pecuniary interest in this item.

MOTION: Councillor Badalati and Councillor Kastanias

That the Mayor obtains independent legal advice from Senior Counsel as to:

- (a) the legal advice provided by HWL Ebsworth
- (b) All documents from both Council and the complainant to be provided to the Senior Counsel so they can make an informed decision about any breaches.

That if the investigation concludes that it was a flawed process, a further report comes back to a Council meeting so appropriate action can be taken.

Record of Voting:

For the Motion: Councillors Badalati, Hindi, Kastanias and Katris

Against the Motion: The Mayor, Councillor Kevin Greene and Councillors Agius (abstained), Elmir, Grekas, Konjarski, Landsberry, Liu, Payor, Symington and Wu (abstained).

On being put to the meeting, the Motion was declared **LOST** with four (4) votes FOR the Motion and ten (10) votes AGAINST the Motion.

Note: Councillor Elmir left the meeting at 9.22pm and was not present for consideration and voting on parts (a), (b) and (c) of the below Motion.

Note: Councillor Symington left the meeting at 9.22pm and was not present for consideration and voting on parts (a), (b) and (c) of the below Motion.

Note: Council voted on the following Motion in seriatim.

MOTION: Councillor Konjarski and Councillor Grekas

- (a) That Council receive and note the findings of the independent legal advice contained within the confidential attachment.

Record of Voting:

For the Motion: The Mayor, Councillor Kevin Greene and Councillors Agius, Badalati, Grekas, Kastanias, Katris, Konjarski, Landsberry, Liu, Payor and Wu.

Against the Motion: Councillor Hindi.

Note: Councillor Hindi left the meeting, the time being 9.24pm, and was not present for consideration and voting on parts (b) and (c) of this Motion.

MOTION: Councillor Landsberry and Councillor Grekas

- (b) That Council, through its legal representatives, advise Mr Sarraf that Council denies his claims and refutes his complaints about the EOI process.

Record of Voting:

For the Motion: Unanimous

Note: Councillor Kastanias left the meeting at 9.25pm and was not present for consideration and voting on part (c) of this Motion.

MOTION: Councillor Landsberry and Councillor Grekas

- (c) That Council notify all external parties, including government agencies, that were known to have been publicly contacted by Mr Sarraf to advise that Council's Jubilee Stadium Naming Rights expression of interest process complied with all applicable legislation, regulations and guidelines pertaining to the process.

Record of Voting:

For the Motion: Unanimous

Note: Councillor Hindi returned to the meeting at 9.27pm.

Note: Councillor Symington returned to the meeting at 9.27pm.

Note: Councillor Elmir returned to the meeting at 9.28pm.

Note: Councillor Kastanias returned to the meeting at 9.30pm.

MOTION: Councillor Grekas and Councillor Payor

- (d) That having regard to the findings of the independent legal advice regarding the disclosure of confidential information involved throughout the tender process and its resolution, Council immediately request ICAC, the OLG and the NSW Ombudsman to commence an investigation into the apparent unlawful breach of the Local Government Act 1993, including Councillors and Council staff.

Record of Voting:

For the Motion: Unanimous

CCL004A-19 Supplementary Report - Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf
(Report by Director Legal Services and General Counsel)

Note: The Mayor Councillor Greene declared a non-significant, non-pecuniary interest in this item.

Note: Councillor Symington declared a non-significant, non-pecuniary interest in this item.

Note: Councillor Konjarski declared a non-significant, non-pecuniary interest in this item.

MOTION: Councillor Hindi and Councillor Badalati

That Council receive and note the correspondence from Colin Love Lawyers dated 7 February 2019 on behalf of Netstrata Pty Limited when considering the earlier report (number CCL002A-19 Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf).

Record of Voting:

For the Motion: Unanimous

OPEN SESSION

RESOLVED: Councillor Landsberry and Councillor Grekas

That the meeting revert to Open Council, time being 9.32pm.

Record of Voting:

For the Motion: Unanimous

OPEN SESSION

Consideration of Recommendations from Closed Session

RESOLVED: Councillor Symington and Councillor Elmir

That the Recommendations of the Items considered in Closed Session be received and adopted as resolutions of Council without any alteration or amendment thereto.

Record of Voting:

For the Motion: Unanimous

CCL002A-19 Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf
(Report by Director Legal Services and General Counsel)

RESOLVED: Councillor Konjarski and Councillor Grekas

- (a) That Council receive and note the findings of the independent legal advice contained within the confidential attachment.

Record of Voting:

For the Motion: The Mayor, Councillor Kevin Greene and Councillors Agius, Badalati, Grekas, Kastanias, Katris, Konjarski, Landsberry, Liu, Payor and Wu.

Against the Motion: Councillor Hindi.

RESOLVED: Councillor Landsberry and Councillor Grekas

- (b) That Council, through its legal representatives, advise Mr Sarraf that Council denies his claims and refutes his complaints about the EOI process.

Record of Voting:

For the Motion: Unanimous

RESOLVED: Councillor Landsberry and Councillor Grekas

- (c) That Council notify all external parties, including government agencies, that were known to have been publicly contacted by Mr Sarraf to advise that Council's Jubilee Stadium Naming Rights expression of interest process complied with all applicable legislation, regulations and guidelines pertaining to the process.

Record of Voting:

For the Motion: Unanimous

RESOLVED: Councillor Grekas and Councillor Payor

- (d) That having regard to the findings of the independent legal advice regarding the disclosure of confidential information involved throughout the tender process and its resolution, Council immediately request ICAC, the OLG and the NSW Ombudsman to commence an investigation into the apparent unlawful breach of the Local Government Act 1993, including Councillors and Council staff.

Record of Voting:

For the Motion: Unanimous

CCL004A-19 Supplementary Report - Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf
(Report by Director Legal Services and General Counsel)

RESOLVED: Councillor Hindi and Councillor Badalati

That Council receive and note the correspondence from Colin Love Lawyers dated 7 February 2019 on behalf of Netstrata Pty Limited when considering the earlier report (number CCL002A-19 Jubilee Stadium Naming Rights Expression of Interest Process - Complaint by Mr Norman Sarraf).

Record of Voting:

For the Motion: Unanimous

Conclusion

The Meeting was closed at 9.34pm

Chairperson