

wyndhamcity

Meeting of Council Minutes

**Tuesday 21 December 2021
At 6.15pm**

**Council Chamber
Functions Centre
45 Princes Highway
Werribee**

**MEETING OF COUNCIL HELD AT THE
COUNCIL CHAMBERS, CIVIC CENTRE,
45 PRINCES HIGHWAY, WERRIBEE ON
TUESDAY 21 DECEMBER 2021**

The meeting commenced at 6.15pm.

PRESENT: Cr Jennie Barrera
Cr Josh Gilligan
Cr Adele Hegedich
Cr Jasmine Hill
Cr Marcel Mahfoud (virtual)
Cr Heather Marcus
Cr Peter Maynard
Cr Sahana Ramesh (virtual)
Cr Mia Shaw
Cr Robert Szatkowski

IN ATTENDANCE: Stephen Wall Chief Executive Officer
Allison Kenwood Director City Life
David Semmens A/Director City Operations
Binda Gokhale Chief Financial Officer
Jenny Wood Coordinator Governance
Martina Simkin A/Governance Policy & Projects Advisor

1. OPENING PRAYER & WELCOME

The Mayor, Cr Peter Maynard, welcomed all in attendance to the meeting.

2. APOLOGIES

The Chief Executive Officer, Stephen Wall, advised that Cr Susan McIntyre was an apology for the meeting.

MOTION:

CRS MIA SHAW/JASMINE HILL

That an apology be accepted on behalf of Cr Susan McIntyre.

(CARRIED)

3. DECLARATION BY COUNCILLORS OF DISCLOSURE OF CONFLICT OF INTEREST/CONFLICTING PERSONAL INTEREST IN ANY ITEM OF THE AGENDA

NIL

4. OTHER REPORTS

4.1 COUNCILLOR VACCINATIONS

3

5. CLOSE OF MEETING

The meeting was declared closed at 6.45pm.

FILE NO:

ITEM NO: 4.1
CHIEF EXECUTIVE OFFICER -
STEPHEN WALL**COUNCILLOR VACCINATIONS****Summary**

On Monday 20 December 2021 the Chief Executive Officer received a letter requesting a meeting that falls into the category of Rule 11 of the Wyndham City Governance Rules; 'Meetings Not Fixed by Council'.

The notification was from Cr Gilligan, Cr Marcus and Cr Shaw and the business to be conducted is attached, including other relevant correspondence.

Attachments

1. Letter to Minister from Mayor dated 3 December 2021
2. Letter from Minister dated 10 December 2021
3. Letter for Unscheduled Meeting received 20 December 2021

Officers' Declaration of Interests

Under Section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Chief Executive Officer – Stephen Wall

In providing this advice as the Acting Chief Executive Officer, I have no disclosable interests in this report.

Executive Manager Corporate Affairs - Emily Keogh

In providing this advice as the Manager, I have no disclosable interests in this report.

Governance Coordinator - Jenny Wood

In providing this advice as the Author, I have no disclosable interests in this report.

Key Issues

- Notification of additional Council Meeting

FILE NO:

ITEM NO: 4.1

CHIEF EXECUTIVE OFFICER - STEPHEN
WALL**COUNCILLOR VACCINATIONS (cont'd)****MOTION**

CRS MIA SHAW / JOSH GILLIGAN

That Council:

1. Receives a report at the February 2022 Council Meeting incorporating advice from Local Government Victoria and the Minister for Local Government Shaun Leane MP, outlining the legal and administrative options available to Council relating to unvaccinated Councillors, both currently and following the expiry of the *COVID-19 Omnibus (Emergency Measures) and Other Acts Amendment Bill 2020* in April 2022, with a view to managing the safety of residents, Council staff and Councillors.
2. Writes to the Minister for Local Government Shaun Leane MP to review the current arrangements around Council meetings, and prohibits the attendance of all unvaccinated persons.

(CARRIED)

COUNCILLOR GILLIGAN CALLED FOR A **DIVISION** ON THE VOTE.The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:**FOR**

Councillor Barrera
 Councillor Gilligan
 Councillor Hegedich
 Councillor Marcus
 Councillor Maynard
 Councillor Shaw

Total (6)**AGAINST**

Councillor Hill
 Councillor Mahfoud
 Councillor Ramesh
 Councillor Szatkowski

Total (4)

FILE NO:

ITEM NO: 4.1
CHIEF EXECUTIVE OFFICER - STEPHEN
WALL**COUNCILLOR VACCINATIONS (cont'd)****1. Background**

On Monday 20 December 2021 the Chief Executive Officer received a letter requesting a meeting that has not been fixed by Council.

The meeting requested falls into the category of Rule 11.1 of the Wyndham City Governance Rules; 'Meetings Not Fixed by Council' where the Mayor or three Councillors may by a written notice to the CEO call a Council Meeting.

Under Rule 11.2 The notice must specify the date and time of the Council Meeting and the business to be transacted. The CEO must convene the Council Meeting as specified in the notice.

2. Relevant Law

Wyndham City Council Governance Rule 11 applies – Meetings not fixed by Council.

3. Discussion

The meeting requested falls into the category of Rule 11.1 of the Wyndham City Governance Rules; 'Meetings Not Fixed by Council' where the Mayor or three Councillors may by a written notice to the CEO call a Council Meeting.

Under Rule 11.2 The notice must specify the date and time of the Council Meeting and the business to be transacted. The CEO must convene the Council Meeting as specified in the notice.

4. Wyndham 2040 Community Vision

Not applicable.

5. Council Plan

7.3 Foster trust in Council through the implementation of effective civic leadership and responsible governance processes that ensure accountability and compliance with all legislated and statutory requirements

6. Other Council Strategies, Plans and Policies

Rule 11 of the Wyndham City Governance Rules outlines the requirements for meetings that have not been fixed by Council.

7. Regional, State, and national plans and Policies

Not applicable.

8. Financial Viability

Funding for Council Meetings is currently allocated in Wyndham's 2021-22 budget and no further funding is required at this time.

9. Sustainability Implications

Not applicable.

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CHIEF EXECUTIVE OFFICER - STEPHEN
WALL

COUNCILLOR VACCINATIONS (cont'd)

10. Options

Not applicable.

11. Community Engagement

Not applicable.

12. Communication Strategy

Council will advise the community of the Council meeting on Council's website as soon as possible.

13. Innovation and Continuous Improvement

Not applicable

14. Collaboration

Not applicable.

Unconfirmed



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Our Ref: A3466661

3 December 2021

The Hon. Shaun Leane
Minister for Local Government
PO Box 4307, Knox City Centre
VIC 3152

Dr Brett Sutton
Victorian Chief Health Officer
GPO Box 4541
Melbourne
VIC 3000

3rd December 2021

Dear Sirs,

RE : COUNCILLOR VACCINATIONS

I am writing in relation to a decision made by Wyndham Council at the 30th November 2021 Council Meeting concerning the vaccination status of Councillors.

At the Meeting, it was resolved that Council:

1. Supports the Victorian Parliament's mandatory vaccine requirements requiring parliamentarians to be vaccinated in order to protect the health and safety of Members of Parliament and parliamentary staff or be suspended from their roles;
2. Writes to the Victorian Minister for Local Government, Shaun Leane MP and Victorian Chief Health Officer, Mr. Brett Sutton, requesting the rationale as to why these vaccination requirements have not been extended to Victorian Councillors; and
3. Request all Wyndham Councillors to provide their proof of vaccination to the Mayor and CEO by close of business, Thursday 2nd December 2021, and for the Mayor to write to any Councillor who fails to provide proof of vaccination and encourage them to take a leave of absence until a response is received from the Minister for Local Government.

Adjusting to post pandemic life has been a challenge for us all, with many industries facing new, unprecedented restrictions. Understandably, there is no 'one size fits all' approach, and clarification is

therefore sought as to the intent of Covid-19 Directions as they relate to Victorian Local Government Councillors.

As it currently stands, Local Government employees are required to be double vaccinated – however under the Local Government Act 2020, Councillors are not considered staff. As outlined above, mandatory vaccination requirements extend to Parliamentarians, however the Directions remain silent in relation to Councillors.

Understanding the complexities involved, Wyndham Council is therefore seeking clarification as to why Councillors have not been included in the Covid-19 Directions.

I appreciate your advice in relation to this matter,

Yours sincerely,



**Cr Peter Maynard
MAYOR, WYNDHAM CITY COUNCIL**

Unconfirmed



The Hon Shaun Leane MP

Minister for Local Government
Minister for Suburban Development
Minister for Veterans

121 Exhibition Street
Melbourne, Victoria 3000 Australia
Telephone: +61 3 8392 2240
DX 210074

Dear Mayor

I am writing in regards to the vaccination requirements for councillors after receiving several requests for clarity around this issue.

As you may be aware, the Victorian State Parliament has passed a motion to require all Members of Parliament to be fully vaccinated in order to attend Parliament as a further measure in the suite of actions to keep Victorians as safe as possible during this global pandemic.

I understand that councils have been managing diverging views on vaccinations and some councils have chosen to pass similar resolutions that require all councillors attending council meetings to be fully vaccinated.

Councils are able to pass resolutions on this matter in accordance with Division 2 of Part 3 of the *Local Government Act 2020*, and I encourage all councils to act in the best interests of their staff and communities by requiring all councillors attending council meetings to be fully vaccinated.

I support your positive actions and best efforts in community safety, just as I support the motion of the Legislative Council and the Legislative Assembly on the vaccinations of all Members of Parliament.

I trust this information is of use to you. If you require additional information please contact Julie Reid, Executive Director Local Government Victoria at Julie.Reid@ecodev.vic.gov.au.

Your sincerely,

The Hon Shaun Leane MP
Minister for Local Government

Date: 10 / 12 / 2021

Cc: CEO



Dear CEO,

The following councillors, enclosed in this written notice, request that an unscheduled Council Meeting be called in accordance with 11.1 of the Wyndham City Council Governance Rules to be held on **Tuesday 21st December 2021 at 6.15pm at 45 Princes Highway, Werribee VIC 3030** (Council Chambers).

Meeting to consider correspondence from Minister for Local Government on unvaccinated Councillors

That Council:

1. Notes:

- a. the correspondence received from the Victorian Minister for Local Government empowering local councils to make their own choices around unvaccinated Councillors;
- b. that the Mayor has written to at least one unvaccinated councillor asking them to take a leave of absence until 'a response from the Local Government Minister was received'; and
- c. that no councillor has taken a leave of absence.

2. Writes the Victorian Minister for Local Government, The Hon. Shaun Leane MP clarifying whether, given the extraordinary nature of the Covid-19 Pandemic, Council has the power to stand aside an unvaccinated councillor in accordance with the direction in his correspondence, under *Division 2 of Part 3 of the Local Government Act 2020* and whether the Minister may use *Section 228 of the Local Government Act 2020* to stand down a Councillor who is unvaccinated.

3. That, in light of the Minister's support for Council's 'positive actions and best efforts in community safety' the Mayor will once again write to any unvaccinated Councillor encouraging them to take an unpaid leave of absence until further, specific advice is received from the Victorian Minister for Local Government, The Hon Shaun Leane.

Rationale

The resolution passed by Wyndham City Council on 30 November 2021, required the Mayor to write to any councillor who failed to provide proof of vaccination and encourage them to take a leave of absence until a response was received from the Minister for Local Government.

Despite correspondence being sent to at least one Wyndham Councillor – no Councillor has taken a leave of absence.

Correspondence has since been received by the Minister for Local Government personally endorsing actions and stated that "Councils are able to pass resolutions on this matter in accordance with *Division 2 of Part 3 of the Local Government Act 2020*" and "I support your positive actions and best efforts in community safety, just as I support the motion of the Legislative Council and the Legislative Assembly on the vaccinations of all Members of Parliament."

Further advice is therefore required to ascertain what specific action can be taken in accordance with current legislation to assist Council in requiring Councillors to be vaccinated, in order to fulfill their duties.

In this context, it is important to note that there is more to being a Councillor than simply attending monthly Council Meetings. Councillors should be meeting with staff and residents, visiting businesses and attending stakeholder meetings and community events. An unvaccinated Councillor cannot perform these functions. Whilst provision has temporarily been put in place for Councillors to attend Council Meetings virtually – a Councillor cannot fulfill the duties expected of them by the community by virtual means.

Since Council passed its resolution on 30th November 2021 encouraging unvaccinated Councillors to take a leave of absence – there has been questions from the community asking why a Councillor should continue being paid when they cannot fulfill the inherent requirements of their role – which is working with community. It is therefore important for any unvaccinated Councillor to once again be encouraged to take an unpaid leave of absence, out of respect to the community who is paying their allowance.

This City had the highest COVID cases in the nation in 2020. Dozens in our community lost their lives because of this virus and we're currently experiencing significant levels of community transmission. Hundreds of Wyndham families can talk firsthand of their experience in battling this virus. Council staff are required to be vaccinated under the Chief Health Officer's Mandatory Health Directions and Councillors should be too.

Council must continue to pursue this matter, not only in the interests of community safety, but also in the interests of a community that is currently under-represented.



Cr Josh Gilligan



Cr Heather Marcus



Cr Mia Shaw

Unconfirmed