MINUTES OF THE SPECIAL MEETING OF
COUNCIL
HELD ON 19 JULY 2016

at 7.45 pm

Council Chambers
293 Springvale Road,
Glen Waverley
MINUTES OF THE SPECIAL MEETING OF THE MONASH CITY COUNCIL HELD ON
19 JULY 2016

PRESENT: Councillors G Lake (Mayor), R Davies, B Little, J Lo, K Nolan, B Pontikis, J Sharkey, T Zographos

APOLOGIES:

Moved Cr Little, Seconded Cr Nolan

That apologies from Crs R Paterson (Deputy Mayor), M Drieberg N Hosking be accepted.

CARRIED

DISCLOSURES OF INTEREST

Nil.

1. Councillor Attendances At Meetings

Moved Cr Lake, Seconded Cr Little

That Council:

1. Notes the following with concern:
   a. Cr Zographos has missed six of the previous seven formal meetings of Council (including the past four meetings) without submitting his apologies in advance or providing any explanation for his absences;
   b. Cr Zographos has missed 80% of Council’s strategy meetings and 67% of Council’s briefing meetings in 2016;
   c. Cr Zographos has breached the Local Government Act 76C(6B) by failing to sign a declaration witnessed by the Chief Executive Officer that he would abide by the new Councillor Code of Conduct within one month of a new Councillor Code of Conduct being resolved upon at the May meeting;
   d. Cr Davies provided less than four hours notice prior to the June Council meeting that he was overseas and would not be attending the June meeting despite him being expected to make an important contribution to a serious matter to be discussed at the meeting;
   e. the inadequate responses received from both Cr Zographos and Cr Davies after I followed up these matters with them; and
f. Council was forced to cancel the scheduled strategy meeting on 12 July 2016 because it was unclear whether Cr Zographos and Cr Davies would attend this meeting.

2. Resolves that it takes seriously the issue of councillor attendances at all Council meetings and in particular:
   a. that it is unacceptable for a councillor to miss multiple meetings without providing an apology or explanation;
   b. that it is undesirable and unreasonable for a councillor to plan a period of extended leave overseas for a holiday without providing reasonable notice to the Council prior to departure of their planned absence; and
   c. that it is unacceptable, and verging on a dereliction of duty, for a councillor to miss 80% of Council’s strategy meetings and 67% of councillor briefing meetings over the course of more than half a year.

3. Requires that:
   a. Cr Zographos:
      i. provide a written apology to the Council and the people of Monash for missing six of the past seven meetings without an apology;
      ii. provide a written apology to the Council and the people of Monash for missing 80% of Council strategy meetings and 67% of Council briefing meetings held in 2016;
      iii. provide a written undertaking that he will provide an apology in advance of any future meeting which he is unable to attend; and
      iv. provide a written undertaking that he will improve his attendances at Council strategy and briefing meetings.
   b. Cr Davies:
      i. provide an apology to the Council for providing inadequate notice of his apology for the June meeting and his period of extended leave despite him being overseas on a family holiday at the time and him being expected to provide an explanation to the Council in relation to a serious matter at the June meeting; and
      ii. be required to immediately advise Council in writing of when he will return from leave.

4. Gives notice to Cr Zographos and Cr Davies that if the above requirements in point 3 are not complied with by midday on Thursday 21 July 2016, that Council intends to consider formal motions to censure at the Council meeting to be held on 26 July 2016.

5. Resolves to consider amendments to the Councillor Code of Conduct at the 26 June 2016 Council meeting to make it a clear breach of that document for a councillor to:
   a. miss multiple meetings without an apology, leave of absence or explanation; and
   b. to be absent from Council for an extended period without providing notice of when the councillor will return from leave.
AMENDMENT

Moved Cr Zographos, Seconded Cr Davies

That council adds part 6 to the motion, namely that the missing information to the tables at the appendix to this report.

Cr Zographos said that the list of attendances did not include Labor caucus meetings held in this Council every year. He said that these were serious matters and the Labor Party’s politicisation of this Council for many years, could not be ignored. The Labor caucus meetings are not included. He added that given there were resignations of Councillors in April and May of this year, he was surprised that the attendance records for these Councillors was not included. He said that it was only fair that the attendance records of former Councillors who had served on this perm of Council be included.

Cr Davies said that there was missing information; when he joined the Council he had heard that some Councillors had not even attended meetings of committees that they had been appointed to. He said that attendance records regarding Committees that Councillors were appointed to needed to be included. He said there was missing information regarding Councillors’ attendances and this was not full disclosure. He said that there need to be close scrutiny of the way that this Council made its decisions.

Cr Pontikis said that he had asked for and received data relating to the attendance of former Councillors and he considered that its inclusion would provide for full transparency. He added that he wanted to ascertain whether attendance at Councillor briefing and strategy meetings was compulsory. He wanted to ask officers about that and why the Mayor had made the media release.

The Mayor commenced to respond to Cr Pontikis.

POINT OF ORDER

Cr Zographos called a Point of Order.

The Mayor asked Cr Zographos to identify the grounds for the Point of Order.

Cr Zographos replied that it was on the basis of relevance. The question had been directed to Council officers.

The Mayor responded that he did not uphold the Point of Order because a Point of Order on the basis of ‘relevance’ relates to whether or not the particular comments to which the Point of Order has been raised are relevant to the subject matter being considered or discussed at that time. The Mayor said that as he had only just commenced answering Cr Davies’s question, the answer he had started to provide was unquestionably relevant.

DISSENT FROM CHAIRPERSON’S RULING
Moved Cr Davies  
Seconded Cr Zographos

That the Chairperson’s ruling be dissented from.

The Chairperson vacate the Chair to allow for the motion to be dealt with

ACTING CHAIRPERSON

The Chief Executive Officer called for nominations for Acting Chairperson

Cr Pontikis was nominated by Cr Zographos. As there were no other nominations, the Chief Executive Officer declared Cr Pontikis elected as Acting Chairperson.

Cr Pontikis assumed control of the meeting.

The Acting Chairperson called upon the mover of the motion to speak in support of the motion.

Cr Davies said that dissent from the ruling was warranted. Cr Pontikis had asked a question of officers, not the Mayor.

The Mayor spoke against the motion, saying that his ruling was entirely appropriate and in order. He said he had commenced to speak in response to Cr Pontikis who had directed one part of his question to him and the other part to Council officers. He said that a Point of Order on the basis of relevance was misconceived because he had not even had the opportunity to address the question in any meaningful way at the point it was raised so it was impossible for anyone to suggest that he was being irrelevant in relation to the matter under discussion. He said that the motion was unnecessary and a distraction.

LOST

DIVISION

For: Crs Davies, Zographos

Against: Crs Lake, Little, Lo, Nolan, Pontikis, Sharkey

The Mayor resumed control of meeting at 8.25 pm.

The Mayor said that he would respond to Cr Pontikis’ question and then ask the Chief Executive Officer if she wanted to add anything further. The Mayor, in responding to Cr Pontikis’ question said that there was no compulsion for a Councillor to attend Council, briefing or strategy meetings. But it was customary for Councillors to attend these meetings. It was also the practice that he had experienced in his time as a Councillor. He added that it was professional, decent and respectful for people elected to the position of Councillor that in order to fulfil their duties they attend and
contribute to these meetings. He said that that the general performance of current Councillors and those since 2000, when he was first elected, had been very good. The attendances had been very good and that’s what the community would expect. The Mayor stated that although there was no legislative compulsion to attend meetings, clearly there was an expectation by the Council and the community that Councillors would regularly attend meetings unless there was an appropriate and valid reason for not being able to do so.

The Chief Executive Officer declined the offer to add anything further.

Cr Nolan said that she did not support the amendment. Cr Zographos was asking for the inclusion of details of attendance at Labor meetings. She said that she was not aware of any such meetings, was not a member of or affiliated with any political party and could not support the amendment.

The Mayor said that in his 16 years on Council he had never attended a Labor Party caucus meeting at the City of Monash. He said there had never been one as far as he was aware and if there had, it had not included him. He added that he could also not support the amendment which was seeking the addition of things that did not exist. He reiterated the reasons for the inclusion of the attendances of Councillors and that related to Councillor attendances at scheduled Tuesday evening meetings of Councillors. He said that the attendance record of each current Councillor was included in the appendix to this motion. He added that the attendance record of previous Councillors who had served on this Council could be included at another time. But the focus was on the current Councillors and they were the ones he had a responsibility as Mayor, to manage.

Cr Davies asked if the Mayor and the Deputy Mayor were held to a higher standard than other Councillors, relating to their attendance at meetings, because they lead and organise them and set the agenda.

The Mayor responded that one would expect a Mayor, in particular, to be an active contributor and manager of Council business and to attend meetings on a regular basis. As far as he could recall the Council had been fortunate in that during this term of Council, the attendance record for Councillors holding the office of Mayor had been very good.

Cr Davies said that the Mayor had missed several briefing and strategy meetings and asked if the Mayor thought that that was a good attendance record.

The Mayor responded that over the 4 years he had had a very good record of attendance. He noted that he was on leave for two meetings in June for a family holiday which was planned well before his unexpected election as Mayor to fill the vacancy created by the previous Mayor’s resignation. He noted that he did not miss a Council meeting, but missed a strategy meeting and a briefing meeting. He said that those absences were unavoidable, but he was proud of his record of attendance. He said that he would be surprised if anyone could rationally say that there was any issue at all with his record of attendance.
In response to a further question from Cr Davies, the Mayor said that he had addressed Cr Davies’ questions and would take no further questions from him.

Cr Pontikis suggested that the data on the former Councillors be added to the appendix.

The Mayor advised that the Council needed to deal with the amendment before it. He suggested that a further amendment from Cr Pontikis could be considered, if the current amendment before Council was not successful.

**LOST**

**DIVISION**

For: Crs Davies, Zographos
Against: Crs Lake, Little, Lo, Nolan, Pontikis, Sharkey

**AMENDMENT**

Moved Cr Pontikis, Seconded Cr Nolan

That point 6 be added, as follows: the attendance data for former Councillors who served in this term of office, be included in the appendix.

Cr Zographos said that Paul Klisaris had never publicised his mobile phone number but had claimed for mobile phone costs. He said that it was ridiculous that the motion did not include such data. He said that the Mayor decided to exclude that information the and be inaccurate was a reflection on the Mayor. The community was looking at the data that the Mayor had said was already public access to all the data. Cr Zographos said that the data was published every month and the Mayor had decided to make an issue of something that was already publicly available. He said that the data for all Councillors should be made available and noted that certain Councillors were being treated differently to other Councillors.

Cr Lo said that he did not support the amendment. He said that he was concerned about the attendance of current Councillors and understood that Councillors could not attend all scheduled meetings. But there was a need to advise the Mayor and the Chief Executive Officer if they could not attend. Cr Lo added that he was not concerned about examining the attendance record of previous Councillors.

The Mayor said that he agreed with almost all the points that Cr Lo had made, but was comfortable with disclosing more information. He pointed out that it was inaccurate to say that information had been selectively removed from the report. He had requested information on the current Councillors. The Mayor said that his focus was on accountability for currently serving Councillors attending meetings and he had concerns about two Councillors not providing explanations, notice or apologies for their absences from recent meetings. He said that the focus was on the meeting
attendance practices of Councillors and the community’s expectations. The concern was more around the pattern of behaviour of two Councillors in providing notice and explanations for missing meetings, in one case missing several meetings and in the other case going overseas on an extended period of leave without informing Council in advance.

Cr Davies asked if the Mayor had said that he had missed only one meeting.

The Mayor said that he had not said anything specific about Cr Davies.

Cr Davies asked how many Councillors had missed only one meeting?

The Mayor advised Cr Davies that the question was not seeking information but rather venturing into debate.

Cr Davies asked the question again.

The Mayor advised that there was the ability for Councillors to ask questions, usually of officers to obtain information about a matter before the Council. That was a privilege and there was no such right under the meeting procedures local law. That privilege was to seek genuine information to assist consideration of an item before the Council, not to make a point or to debate. The Mayor said that Cr Davies was welcome to debate, once the Council moved on from this amendment.

Cr Davies interjected. The Mayor reminded Cr Davies about the requirements of the Supplementary Standing Orders and the maintenance of order in the chamber. He said that he was ruling that Cr Davies’ question was out of order and if he wished he could raise the matter he was seeking to ask a question about later in the meeting during discussion providing it was relevant.

CARRIED

DIVISION

For: Crs Davies, Lake, Nolan, Zographos, Sharkey, Nolan

Against: Crs Little, Lo

AMENDMENT

Moved Cr Zographos, Seconded Cr Davies

That point 7 be added, as follows: Council voices concern regarding the Mayor’s reckless and inappropriate actions relating to an invasion of privacy, publishing personal information without permission in a council media release and the apparent lack of contrition regarding these serious matters.
Cr Davies said that he was shocked and surprised while overseas, that details had been released by the Council that he was not at home. The information went out to the wider community. He said that at that time his 21 year old son was living there alone and he had concerns for the safety of his family and had had to take safety precautions. Cr Davies said that it was very disappointing that the Mayor had released that information without checking. Cr Davies added that he had asked the Chief Executive Officer about the release and was advised that it was not policy to release travel details relating to Councillors, without Councillors’ permission.

Cr Pontikis asked what was the proper procedure to follow when Councillors were to be absent.

The Mayor advised that there was a custom, which has not been written down relating to such notification, but perhaps it was necessary for the Council to consider a written, documented procedure. He added that as he foreshadowed in the substantive motion, he intended to make such recommendations at next week’s Council meeting to amend the Councillor Code of Conduct.

The Mayor said that it was the past practice of Council to publicly acknowledge apologies and periods of leave, as well as the reasons for that leave. He said that he could recall it being done on other occasions and was done in Cr Davies’s case in the usual way. At the June meeting, he had noted that Cr Davies was absent because he was currently overseas. This was the approach used in this term of Council, and was applied when former Cr Klisaris took leave of absence to go overseas, missing three meetings. The Mayor said that if the Council wanted to follow a different approach in future they could do that through considering his proposed protocol to be considered the following week.

In response to a question of clarification from the Mayor, the Chief Executive Officer advised that the question she was asked by Cr Davies which he had referred to was via email and following the June Council meeting. Cr Davies had asked whether she would make assurances of non-disclosure in relation to his date of return which the Mayor had sought from him and that her assurances were made solely in relation to that specific request from Cr Davies.

The Mayor said that he did that as well. He added that that was a request from Cr Davies for the Chief Executive Officer and himself to not disclose publicly the date that Cr Davies would return from leave, which was information that was sought from him. He said that despite the assurances provided by the Mayor and the Chief Executive Officer, the information was not provided by Cr Davies.

Cr Davies said that the Mayor had misrepresented the contents of his e-mail and sought to make a Personal Explanation.

The Mayor asked on what statement was made that affected Cr Davies in his capacity as a Councillor.
Cr Davies advised that the statement made was about the Mayor’s provision of assurance of non-disclosure about his travel details. So, he wanted to clarify that.

PERSONAL EXPLANATION

Cr Davies stated that he had requested from the Mayor and the Chief Executive Officer that no further disclosures about his travel plans be made public without his consent. He said that the Chief Executive Officer had agreed and the Mayor had agreed. But the Mayor’s response was in a manner that led him to believe was not serious. He sought the Mayor’s assurance, but did not receive a response.

PERSONAL EXPLANATION

The Mayor said that Cr Davies had provided an incorrect characterisation of his communication with Cr Davies and read out his e-mail to Cr Davies, dated 30 June 2016. He said that he did not refer to Cr Davies as ‘inane’ as Cr Davies had suggested. He added that it was impossible to manage Council business without knowing when Councillors were absent and if they were away, when they were returning.

LOST

DIVISION

For: Crs Davies, Pontikis, Zographos
Against: Crs Lake, Little, Lo, Nolan, Sharkey

PERSONAL EXPLANATION

Cr Zographos requested the opportunity to make a Personal Explanation regarding part 1c of the motion.

Cr Zographos said that his failure to meet the deadline this was an honest mistake for which he accept full responsibility. My intention was always to comply with the requirement to sign before deadline. Unfortunately in practise this was not able to be achieved. Before the deadline, I notified the CEO of my intention to sign the document in her presence on the first available opportunity. He added that here was never any intention on his part to make any inconvenience for the Council regarding his signing of this document.

Cr Zographos said that everyone made mistakes and he had learnt from this mistake. He said that he certainly took this matter seriously. It was a new requirement and he was unfamiliar with it. He added that he was grateful to the Council for its understanding regarding this matter.
Cr Zographos said that he believed that the form could be signed and sent to the Chief Executive Officer by the deadline. However it was brought to his attention whilst on leave overseas that it had to be signed in her presence, unlike other forms that Councillors more commonly sign such as the twice annual ordinary returns which can be signed and sent to the Chief Executive Officer.

The Mayor thanked Cr Zographos for his Personal Explanation.

SUBSTANTIVE MOTION

Cr Zographos said that it was unfortunate that a lot of time had been wasted on this meeting. He said that this was a stunt in the lead up to the Council elections and the Mayor had a record for holding special meetings for political purposes. He added that the community knew how to judge how effective someone in public office was. Someone who was active in the community, attended public events and met with constituents and scheduled meetings would be considered effective. Sometimes such events clashed with scheduled meetings at Council and Councillors could not be in two places at once.

Cr Little said that when Cr Lake became Mayor, he said that he promised to improve the behaviour of the Council. The substantive motion related to two Councillors who did not have the courtesy to let the Mayor and the Chief Executive Officer know that they would not be attending meetings.

POINT OF ORDER

Cr Zographos raised a Point of Order, saying that he was being misrepresented.

The Mayor did not uphold the Point of Order.

Cr Zographos said that he wanted to make a Personal Explanation.

The Mayor responded that Cr Little would first be given the opportunity to finish his contribution.

Cr Little resumed speaking, saying that the matter was one of simple professional conduct. He said that all Councillors were provided with various forms of electronic communication and allowed them to easily and directly advise the Mayor or the Chief Executive Officer of their absence from a meeting. He added that Councillors were concerned at the lack of apologies being submitted by certain Councillors for absences from meetings.

PERSONAL EXPLANATION

Cr Zographos sought to make a personal explanation in relation to Cr Little’s comments that Cr Zographos had not given apologies for absences. Cr Zographos said that he had provided apologies through either Cr Pontikis or Cr Davies. He said that he had
conveyed an apology for the 28 June Council meeting via Cr Pontikis and the 14 July Councillors’ briefing meeting via Cr Davies.

The Mayor said that he did not accept that explanation. The appropriate process was to submit an apology through either the Mayor or the Chief Executive Officer, or the Executive Manager Corporate Administration and Customer Service or the Coordinator Civic and Governance. The Mayor added that Cr Zographos had not submitted an apology for 6 of the last 7 scheduled meetings and had missed four meetings in a row. The Mayor said that he had spoken to Cr Pontikis on 21 June 2016 regarding Cr Zographos’s whereabouts, as he did not know, and this was the third meeting in a row that the Councillor had missed. Cr Pontikis advised that he did not know. During a subsequent conversation, on 29 June 2016, the day after the June Council meeting, Mayor said that he was advised by Cr Pontikis that he had been informed by text by Cr Zographos that he may be back for the June Council meeting.

PERSONAL EXPLANATION

Cr Davies sought to make a Personal Explanation in relation to comments by the Mayor about the apology Cr Zographos said that had been conveyed via him.

The Mayor said that there was no need for such an explanation as he had not referred to Cr Davies.

Cr Davies said that the Governance and Behaviour Monitor was not at this meeting. He said that the meeting was ridiculous and a political beat up. He said that the Mayor’s favoured candidate had lost the election for the Federal seat of Chisholm and he was getting political.

Cr Davies said that the Mayor had missed a meeting and that Councillors did miss meetings.

Following an interjection from Cr Zographos, the Mayor reminded Cr Zographos that under the Supplementary Standing Orders, interjections were not permitted.

Cr Davies continued, saying that this was a politically motivated meeting, that it was common for apologies to be conveyed via another Councillor and that if the Mayor wanted to change the ground rules, he should inform other Councillors.

STATEMENT BY THE MAYOR

The Mayor read out the following statement:

That it be included in the minutes for this meeting, that this Special Meeting was called at short notice due to the behaviour of certain Councillors.
The Mayor declared the meeting closed at 9.35 pm

MAYOR: .........................................................

DATED THIS ................................ DAY OF ................................ 2016