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CITY OF

Dayton



**CONFIDENTIAL SPECIAL COUNCIL
MEETING**

Released 27 July 2021

3. CONFIDENTIAL MATTERS

3.1	Workplace Safety	3
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Released 27 July 2021

3.1 WORKPLACE SAFETY

Contact Person: Ms Rosemary Munslow

Why is this matter confidential?

Subject to an order pursuant to Section 90 (3) (h) of the Local Government Act 1999, this matter is confidential because the information to be received, discussed or considered relates to legal advice and to ensure the disclosure of information does not compromise any investigatory process.

A. COUNCIL/COMMITTEE TO MOVE MOTION TO GO INTO CONFIDENCE

No action – this motion passed in the open section.

B. THE BUSINESS MATTER**3.1 WORKPLACE SAFETY**

Delegated Authority : Matters which cannot be delegated to a Committee or Staff.

PURPOSE

For Council to consider legal advice arising from serious concerns regarding governance standards and workplace safety.

RECOMMENDATIONS WILL BE PROVIDED AT THE MEETING

1. DISCUSSION

- 1.1 These concerns have arisen as a result of feedback from staff through exit interviews, comments made in the staff satisfaction survey, perceived bullying and harassment behaviour as well as a number of other recent events.
- 1.2 It was determined in consultation with Council's current contractual legal providers Norman Waterhouse Lawyers that there was a conflict of interest with the firm's ability to deal with this matter and accordingly the Council stepped outside its contractual arrangement on this occasion. The conflict of interest was formally acknowledged by Norman Waterhouse.
- 1.3 Each member of the Executive Management Team has a conflict of interest in this matter and as such will not be in attendance at the Special Council meeting.
- 1.4 There are a number of risks to the Council, as a corporate entity, associated with these concerns, including but not limited to:
 - 1.4.1 Prosecution, for failing as a PCUB (*person conducting a business or undertaking*) to provide a safe and healthy workplace;
 - 1.4.2 Potential intervention by oversight bodies such as the State Ombudsman, ICAC, the Minister;
 - 1.4.3 Increase labour turnover, loss of key staff and reputational damage; and
 - 1.4.4 Increased Worker Compensation claims.
- 1.5 The legal advice sought by the Senior Manager Corporate Services will be provided to the Council at the meeting.
- 1.6 Council's current Procurement Policy allows for purchases below \$20k to proceed on a single quote. While it is envisaged the cost of an external investigator to be below \$20k, in the event that it extends beyond this amount the Policy allows for exemptions where there is good reason to deviate from the Policy. Such a reason includes where it is deemed that the pressures of time are such that a tender process or market process is not feasible.
- 1.7 The proposed investigator has:
 - 1.7.1 suitable qualifications;
 - 1.7.2 extensive experience in undertaking investigations;
 - 1.7.3 demonstrated experience working with public authorities; and
 - 1.7.4 doesn't have any direct or indirect involvement or relationship with the Council, the Chief Executive Officer or other members of the Executive Management Team.

C. COUNCIL/COMMITTEE TO DECIDE HOW LONG ITEM 3.1 IS TO BE KEPT IN CONFIDENCE

Purpose

To resolve how long agenda item 3.1 is to be kept confidential.

STAFF RECOMMENDATION

Pursuant to Section 90(2) and Section 91(7) of the Local Government Act 1999, the Council orders that the following aspects of Item 3.1 be kept confidential in accordance with Council's reasons to deal with this item in confidence pursuant to Section 90 (3) (h) of the Local Government Act 1999:

- **Report for Item 3.1**
- **Legal Advice for item 3.1**
- **Decision for Item 3.1**

This order will be reviewed within 12 months by Council in accordance with Section 91(9)(a) of the Local Government Act 1999.

