



MINUTES SPECIAL MEETING

29 MAY 2024

COMMENCING AT 9:00 A.M.

PRESENT: Cr A Eden (Chairperson)
Cr R Coghlan
Cr A Middleton
Cr B Moller
Cr B Olds
Cr R Pyne
Cr M Tickner
Cr T Tim
Cr K Vallely
Cr C Zeiger

OFFICERS:

C Posgate	Director People & Organisational Performance
A Combe	Executive Manager Marketing & Communications
P Rogato	Media Coordinator
A Turnbull	Executive Officer
S Godkin	Minute Secretary

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CONFLICTS OF INTEREST

In accordance with Section 150 EW of the *Local Government Act 2009* Cr Moller raised a suspicion of a declarable conflict of interest against Mayor Eden in the recruitment of interim CEO due to her relationship with one of the candidates, Mr Andrejic.

At the outset, I express how much this has weighed on me in respect to where we are, in having to deal with this matter today.

The Local Government Principles and Values apply.

Principles

1. Transparent and effective processes, and decision making in the public interest;
2. Good Governance of, and by, local government;
3. Ethical and legal behaviour of Councillors.

Values

In making decisions in the public interest Councillors will;

- Make decisions in accordance with law and policy

To meet the community's expectations for high level leadership, Council will;

- Be committed to the highest ethical standards.

The issues of Mayor Eden's relationship with the applicant for the CEO role John Andrejic in relation to his involvement in her election campaign as key strategic advisor and issues that have arisen in the recruitment process have caused me to be concerned about the integrity and ethics of the process.

And I make the point that this is not about any individual candidate, (incidentally I had a very good working and professional relationship with Mr Andrejic in his previous role as CEO of the Cairns Regional Council and have no concerns about his capacity to undertake the role.)

Life for me is not a success-only journey and I've made mistakes, and I don't always get it right. However, as someone who is very process driven and wanting to hold myself to a high integrity and ethical standard around governance these are my reasons for raising my following concerns regarding the process and the perception that the relationship between the Mayor and Mr Andrejic could be defined as a '*close personal relationship*'.

Recruitment Process

Mayor Eden, Cr Olds and Cr Zeiger have all disclosed (in a meeting with Councillors and Council's legal advisor on the 20 May 2024), that a prior meeting organised by Mayor Eden was held by them with John Andrejic on the 20 March 2024. At that meeting the then CEO Mica Martin's role was discussed with Mayor Eden, Cr Olds and Cr Zeiger seeking John's advice around the recruitment

process for a new CEO. Reportedly, John's advice was to review Ms Martin's contract and to seek the advice of the Director of People and Organisational Performance. That advice was subsequently acted on. In the course of the conversation, a question was asked of John if he would be interested in coming back to Cairns Regional Council as CEO to which John reportedly replied that he would be interested in taking a phone call.

The issue I seek Mayor Eden's response to is: why did she feel the need to arrange the meeting with John and does this give rise to any declarable conflict of interest by her, given that Mayor Eden, then nominated herself along with Cr Olds and Cr Zeiger to the Interview Panel in the recruitment of a new Interim CEO, with John now being one of the applicants.

Close Personal Relationship

1. At the outset of the recruitment process Mayor Eden claimed that her relationship with John Andrejic was that he was a volunteer on her campaign team where he put in corflutes and handed out on polling day and that was the extent of the relationship.
2. At the meeting on the 20th of May 2024, Mayor Eden made a Disclosure Statement, read by her in respect to her relationship with John, where she stated as follows:
 - "Mr Andrejic's role was an unpaid volunteer.
 - Mr Andrejic was part of a group of 3 people that provided me with high level strategic advice and guidance in determining whether I would run for Mayor, and once that decision was made further high-level strategic advice throughout the campaign.
 - The group of 3 people were not involved in Team Eden's campaign and provided assistance individually to me only.
 - Mr Andrejic and I intermittently had lunch meetings in the city where high level strategic advice and guidance were provided. Our lunch meetings were not a secret - we mostly sat outside of the footpath dining area and greeted acquaintances as they passed by. Lunches were paid equally by both Mr Andrejic and I on a 'take it in turns' basis.
 - Lunch frequency was regular for the first half of 2023 and irregular for the second half of 2023. Noting Mr Andrejic finished work in the city June 2023."
3. During the course of the meeting (20/5/2024) Mayor Eden was asked if she had ever stayed at Mr Andrejic's holiday home in Cardwell to which she replied she stayed there in 2021 and she paid market value to stay there. Mr Andrejic was not there at the time. When asked how many times had she visited there, she responded that there were two further occasions where she visited the house to use the bathroom. She informed she did not have a key but a neighbour was able to provide such.

4. Mayor Eden subsequent to the meeting of the 20th of May 2024 provided further Disclosure Addendums to the effect that the following visits to John's Cardwell property were disclosed:-
 1. Holiday with children 23/9/2021;
 2. Holiday with children and children's friends 25/1/2022;
 3. Holiday with female friend for a hike at Hinchinbrook Island 4/6/2022
 4. Use of John's bathroom facilities 5/6/2022; and
 5. Use of John's bathroom facilities 1/7/2023.

On all occasions Mr Andrejic was not present.

The issue I seek Mayor Edens response to is: with each disclosure her relationship real or perceived is becoming stronger in terms of involvement, from John being a volunteer who put in corflutes and handed out on election day, to then becoming a key strategic advisor in a group of 3 for the Mayor personally and not Team Eden, from 1 holiday and 2 bathroom stops at John's Cardwell property to 3 holidays and 2 bathroom stops. I suggest there is a 'familiarity' in the level of the relationship with a willingness to by-pass public facilities to visit John's property that could give rise to the view that this is a *close personal relationship*.

I refer to the guides that have been supplied to Councillors by both the organisation and the Department, where they provide indicators that Councillors should use to determine whether a close personal relationship with a person exists.

These indicators include (the below in italics is quoted directly from the relevant guidelines):

- *The person is a close friend or someone you might invite to family events*
- *You regularly meet the person for social activities, or visit their house*
- *Other people regularly see you together in public*
- *You feel uneasy about making a decision that might be favourable or unfavourable to them*

If after considering the above you are still unsure, this usually means you should notify of a declarable conflict of interest.

Further, the guideline instructs that when considering whether a Councillor's participation is in the public interest, the below are valid reasons:

- *Will the Councillor's involvement negatively affect the community's trust in the decision?*
- *Will the decision have a big impact on the related party?*
- *Is the interest unique to the Councillor?*
- *Is there a way the Councillor could influence the decision?*
- *Is the potential benefit to the related party certain?*
- *Is your decision consistent with other similar matters considered previously for other Councillors?*

Remember, the test is not whether the Councillor is an honest and impartial person, but whether a reasonable and fair-minded person in the community could lose trust about whether the decision was made in the public's interests.

On the basis of what has been raised, my view is that Councillors need to ensure they have thoroughly considered the conflict of interest issues in this process.

From a governance perspective and for open and transparent decision making and for residents to have the trust in our Council, my view is that these matters need to be dealt with on the floor of the chamber by the appropriate process.

Good governance should not only be practiced but should be seen to be being practiced by our Council so early in our new term, and I make no apology for ensuring the highest degree of integrity in this process, despite the discomfort it may cause and we as Councillors I believe will be judged by our residents on our integrity and ethical standards today.

Cr Eden response

What do I have to gain from the appointment of this candidate? Seriously, what personal interest do I have? We all want the same thing - I want what you want – and that is the best person for the job.

Do you know what I respect about today? Exactly what I hope we will continue in this chamber. Councillors are free to voice their opinions – as Cr Moller has, but we make decisions based on facts. And in this case, the facts are clear.

The use of an independent recruiter and legal experts have ensured the integrity and robustness of this recruitment process - every step of the way, including my involvement. And that's why I can say to you, hand on heart – that I have no conflict of interest.

Every 't' has been crossed and every 'l' has been dotted with my involvement. On top of that we engaged an independent recruiter, established a recruitment panel, provided multiple opportunities for all councillors to be involved in the process from workshopping the interview questions, reviewing the full list of applicants, to being part of the final interviews and all councillors asking their own questions of the applicants. The decision here today is a decision of council.

I would like to repeat what I have already shared with you because nothing has changed, and I have been as transparent as I possibly can be and the legal advice stands.

The basis of this conclusion is that:

Mr Andrejic's role was an unpaid volunteer.

Mr Andrejic was part of a group of 3 people that provided me with high level strategic advice and guidance in determining if I would run for mayor, and once

that decision was made further high level strategic advice throughout the campaign.

I asked all 3 people individually why they were providing advice and in their own unique ways they responded principally the same – for their love of this city. Their interest was for the public best interest.

The group of 3 people were not involved in Team Eden's campaign and provided assistance individually to me only. Team Eden had its own campaign manager – Gary Kerr, who managed the campaign and all aspects of Team Eden's campaign.

I am also aware that Mr Andrejic provided high level advice to another candidate running for a divisional councillor position who was not part of Team Eden and who was not successfully elected.

Mr Andrejic and I intermittently had lunch meetings in the city where high level strategic advice and guidance were provided. Our lunch meetings were not a secrete – we mostly sat outside on the footpath dining area. Lunches were paid for equally by both Mr Andrejic and I on a 'take it in turns' basis.

When I ran for mayor, I put everything on the line. I worked extremely hard to get into this position. The people of Cairns have entrusted me to do the right thing.

You won't see it written in the Local Government Act, you won't see it written in any textbooks, but as previously shared with you I went to the LGAQ Mayors forum a few weeks ago in Brisbane where we had presentations from numerous current and former mayors. The key message that came out was the key to success, the key to our collective success, the key to our councils' success, is having the right CEO.

My only motivation as we work through this process is to get the right person as it's the only way we'll succeed. That person will be who it will be and I don't intend to entrust my future and the future of this great city to anyone other than the right person it's too important.

As you know, I am a qualified social worker. I am educated, trained and experienced in working within a practice framework coupled with a strong code of ethics. A core element of this framework is critical thinking. To be a critical thinker I have the ability to remain open-minded and unbiased while gathering and interpreting data.

What's in the best interest of Cairns is at the forefront of my thinking and decision making.

To that end, I have an open mind to all candidates. I assessed on merit, on the information provided because I want the best for Cairns.

Lunch frequency was regular for the first half of 2023 and irregular for the second half of 2023. Noting Mr Andrejic finished working in the city June 2023.

I stayed at Mr Andrejic's Cardwell property on 3 occasions in 2021 and 2022, utilised the bathroom facilities twice and paid market value for the stays. Mr Andrejic was not at the property at these times.

When I came into the chamber today, I didn't believe I had a conflict of interest and I still feel that way.

I then asked our legal expert have you heard anything at this meeting today that causes you to have any concerns with the advice you've provided to date? And he responded unequivocally, no.

That's not my opinion – this is the opinion of our legal experts. And that councillors, is what I want you to focus on; the legal advice was there is no conflict.

I appreciate this may have been heavy going, hard way to start the morning however I am confident we can all work together as a team and that's what I am counting on over the next four years.

This appointment comes down to who has the best credentials to support the Council and our community. It's as simple as that.

OLDS / ZEIGER

Cr Eden does not have a declarable conflict of interest.

lost with Councillors Coughlan, Middleton, Vallely, Pyne and Moller voting against the motion and Councillor Eden not participating in the vote

Cr Eden has been voted to have a declarable interest, the remaining Councillors now must vote if Cr Eden can stay and participate or if she is required to leave the meeting whilst this matter is being voted on.

OLDS / TICKNER

I move that it is in the public interest that Cr Eden is allowed to stay and participate and vote on this matter, on the condition that the rationale above in her declaration: and therefore, a reasonable person would trust that the final decision is made in the public interest.

carried with Councillors Coughlan, Vallely, Pyne and Moller voting against the motion and with Councillor Eden not participating in the vote

PURPOSE OF MEETING

To consider the matters listed on the agenda.

There is an item in closed session. This item relates to a staff matter.

Can I please have a mover and a seconder to move into Closed Session under Section 254J(3)(a) of the Local Government Regulations 2012.

CLOSED SESSION

OLDS / COGHLAN

COUNCIL RESOLVED TO GO INTO CLOSED SESSION TO DISCUSS THE FOLLOWING MATTERS AS LISTED IN THE AGENDA:

1. STAFF MATTER

65/4/1 | 7427323

carried unanimously

OUT OF CLOSED SESSION

COUNCIL RESOLVED TO MOVE OUT OF CLOSED SESSION

MOLLER / MIDDLETON

carried unanimously

RESOLUTIONS ARISING FROM MATTERS DISCUSSED IN CLOSED SESSION.

1. STAFF MATTER

65/4/1 | #7427323

OLDS / TICKNER

That Council:

1. In accordance with section 195(a) of the *Local Government Act 2009*, appoints John Andrejic as the Acting Chief Executive Officer of Cairns Regional Council for a period of three (3) months with the option of an additional three (3) months by mutual agreement; and

- 2. Delegates to the Mayor under section 257 of the *Local Government Act 2009* to finalise and execute a contract of employment with John Andrejic on behalf of Council.

carried with Councillors Pyne and Moller voting against the motion

THE MEETING CLOSED AT 9:58 AM

CONFIRMED THIS 5th DAY OF JUNE 2024



.....
MAYOR



.....
ACTING CHIEF EXECUTIVE OFFICER