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1. Adoption and confirmation of the minutes**MOTION****Moved Councillor Hollingsworth****Seconded Councillor Hurd****That the minutes of the Ordinary Council meeting held on 26 August 2019 be adopted and confirmed.****CARRIED****2. Declaration of conflict of interest of any councillor or council officer**

Nil.

3. Deputations, presentations, petitions and public submissions

Nil.

4. Assemblies of councillors

Section 80A of the Local Government Act 1989 requires that a written record of all Assemblies of Councillors be kept and reported to an ordinary Council meeting as soon as practicable.

The attached record of Assemblies of Councillors (Attachment 1) is reported to Council in accordance with this requirement.

MOTION**Moved Councillor Ross****Seconded Councillor Hollingsworth****That Council resolve to receive and note the record of Assemblies of Councillors, as annexed to the minutes.****CARRIED****5. Public question time****PQT1 Ian Hundley of Balwyn North - Disallowed Question**

The **Mayor, Councillor Addis** advised that a question had been submitted by Mr Ian Hundley.

The Mayor, Councillor Addis advised that the question had been disallowed in accordance with the Meeting Procedure Local Law 2017 because:

- Clause 60.3.1 of the Meeting Procedure Local Law 2017 provides the person asking the question is to be in the gallery at the time the question are to be read out.
- Clause 60.2.2 of the Meeting Procedure Local Law 2017 provides that questions must be the subject of a prior written enquiry to a Councillor or a member of Council staff, which has received a written response from a councillor or a member of Council staff.
- Clause 59.4.1 of the Meeting Procedure Local Law 2017 provides that the question should be received by Council by 12:00 noon on the day of the *Ordinary meeting* to receive a verbal response at the meeting.

The **Mayor, Councillor Addis** advised that a written response will be provided in due course.

6. Notices of motion

Nil.

7. Presentation of officer reports

Procedural motion

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That the following items:

- 7.1 Recommendations of the Audit Committee Meeting held 21 August 2019**
- 7.2 September 2019 Amended Budget**
- 7.3 Contract 2019-120 - Concrete & Miscellaneous Maintenance Services**
- 7.4 Contract 2018/183, Elevating Work Platforms (2) - Lease, Supply and Delivery**
- 7.5 Revised Instruments of Delegation to Members of Council Staff and the Chief Executive Officer**
- 7.6 Revised Instruments of Appointment and Authorisation (Statutory Planning)**
- 7.7 Amenity Local Law Sunset Review**

be moved en bloc as per the officers' recommendations outlined in the agenda.

CARRIED

Councillor Ross and Councillor Hollingsworth requested the minutes reflect that they voted against the motion.

7.1 Recommendations of the Audit Committee Meeting held 21 August 2019

Council's Audit Committee held its most recent meeting on 21 August 2019. This report presents the recommendations of that Audit Committee meeting for consideration by Council. A schedule of reports and committee recommendations is presented as an attachment to this report.

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That Council resolve to adopt the resolutions recommended to Council contained in Attachment 1 (as annexed to the minutes) reflecting the recommendations from the Audit Committee meeting held on 21 August 2019.

CARRIED

7.2 September 2019 Amended Budget

This report presents the proposed September 2019 Amended Budget to Council to form an Amended Budget for management reporting purposes.

The overall budgeted surplus has decreased by \$4.17 million to a surplus of \$11.59 million.

The major movements in operating income are a net decrease in recurrent income of \$726,000 mainly due to \$433,000 relating to the removal of State Government Home and Community Care (HACC) grant funding program concluded during the 2018-19 financial year and revised allocation for Commonwealth Home Support Programme. Lower interest on investments income is also anticipated due to current market conditions \$600,000.

Recurrent operating expenditure is expected to increase by a net amount of \$2.44 million primarily due to increases in the recycling contract materials and services, provision for bad and doubtful debts and depreciation expense (non-cash accounting entries).

Full explanations of the changes to the Income Statement are provided in Attachment 1.

Net priority projects expenditure in 2019-20 will be \$23.52 million, an increase of \$2.11 million from the 2019-20 Adopted Budget of \$21.41 million (refer Attachment 2). An additional \$2.02 million in final net forward expenditure commitments to 2019-20 financial year has been identified, as adopted in the June 2019 Quarterly Performance Report.

Total proposed capital works expenditure in 2019-20 is predicted to be \$78.45 million, an increase of \$2.83 million from the 2019-20 Adopted Budget of \$75.62 million (refer Attachment 3).

Timing of expenditure on a number of multi-year projects has been revised and adjusted. An additional \$2.39 million in final net forward expenditure commitments to the 2019-20 financial year has been identified.

Predicted cash and investments at 30 June 2020 are forecast to increase by \$2.33 million (refer Attachment 1), which provides a working capital ratio of 2.42 to 1 and is a decrease from Council's 2019-20 adopted working capital ratio of 2.53 to 1.

Amendments to the Adopted 2019-20 Strategic Indicators are provided in Attachment 4.

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That Council resolve to:

- 1. Adopt the Amended Budget as identified in Attachment 1, 2 and 3 which will be used for management reporting purposes.**
- 2. Note the Forward Capital Works Program for 2021 to 2022 to be included as part of the review of Council's Long Term Financial Strategy for allocation in 2020-21 included in Attachment 3.**
- 3. Adopt the amended 2019-20 Strategic Indicators included in Attachment 4.**

CARRIED

7.3 Contract 2019-120 - Concrete & Miscellaneous Maintenance Services

This report seeks Council endorsement for the award of Contract No. 2019/120, Concrete and Miscellaneous Maintenance Services. This Contract involves the provision of Concrete and Miscellaneous Maintenance Services for footpath infrastructure assets throughout the Municipality.

The estimated annual cost of this Contract for year one is \$1,347,390 (excluding GST).

Council does not guarantee the appointed contractors a minimum quantity of work in relation to any of the contract components. Expenditure in future years will vary depending on the number of defects identified to meet the Road Management Plan requirements.

Due to the value of the contract it was publicly advertised in accordance with the requirements of section 186 of the *Local Government Act 1989*.

Confidential information is contained in Attachment 1, as circulated in the confidential section of the agenda attachments, in accordance with Section 89(2) of the *Local Government Act 1989*, as the information relates to contractual matters and premature disclosure of the information could be prejudicial to the interests of

Council or other persons. This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That Council resolve:

- 1. To award Contract No. 2019/120, Concrete and Miscellaneous Maintenance Services, to the following panels of Contractors:**
 - **Panel A - Concrete Replacement Services**
 - Primary Contractors**
 - **A Frame Construction and Paving Pty Ltd (ACN 635 595 238) as Trustee for Golotta Family Discretionary Trust (ABN 36 210 923 803);**
 - **Prestige Paving Pty Ltd (ACN 140 970 912);**
 - Reserve Contractors**
 - **Rabcon Paving Pty Ltd (ACN 144 675 329);**
 - **Southern Concreting Services Pty Ltd (ACN 162 658 791);**
 - **Panel B - Concrete Grinding Services**
 - **McDonough Contracting Pty Limited (ACN 005 576 376) as Trustee for the McDonough Family Trust (ABN 40 476 183 863);**
 - **Panel C - Miscellaneous Services**
 - Primary Contractor**
 - **A Frame Construction and Paving Pty Ltd (ACN 635 595 238) as Trustee for Golotta Family Discretionary Trust (ABN 36 210 923 803);**
 - Secondary Contractor**
 - **Southern Concreting Services Pty Ltd (ACN 162 658 791);**
- at their respective tendered schedule of rates for an initial period of two years, with a possible further extension of one period of two years and one further period of one year to a maximum contract term of up to five years. The estimated contract cost for the maximum term is \$7,410,643 (including GST). The cost to Council after the return of the GST Tax Input Credits is \$6,736,948.**
- 2. To authorise the Director Environment and Infrastructure to execute the contract agreements with the above contractors.**
 - 3. To authorise the Director Environment and Infrastructure to negotiate extensions to the contract with the above contractors to the maximum five year contract term.**

4. **To note that expenditure under this contract in 2019-20 is in accordance with Council's adopted budget and expenditure in future years will be in accordance with the approved budget allocations.**

CARRIED

7.4 Contract 2018/183, Elevating Work Platforms (2) - Lease, Supply and Delivery

This report seeks Council endorsement for the award of Contract No. 2018/183, Elevating Work Platforms (2) - Lease, Supply and Delivery. This contract involves the replacement of two elevated work platform vehicles that have reached the end of their leasing arrangements.

The estimated annualised lease cost of this Contract, for two elevated work platform vehicles, is \$99,033 (excluding GST) which is in accordance with Council's current adopted budget. Expenditure in future years will be in accordance with approved budget allocations with the total seven year lease term expected to cost \$762,552 (including GST). The estimated cost to Council after the return of GST Input is \$693,229. Because of the value of the contract it was publicly advertised in accordance with the requirements of section 186 of the *Local Government Act 1989*.

Confidential information is contained in Attachment 1, as circulated in the confidential section of the agenda attachments, in accordance with Section 89(2) of the *Local Government Act 1989*, as the information relates to contractual matters and premature disclosure of the information could be prejudicial to the interests of Council or other persons. This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That Council resolve:

1. **To award Contract No. 2018/183, Elevating Work Platforms (2) - Lease, Supply and Delivery, to:**
 - **Australian Holden Group 1 Pty Ltd (ABN 95 116 779 198) trading as Prestige Hino for the supply and delivery of two elevated work platform vehicles, being the nominated dealership and authorised distributor of the trucks and in association with Aerial Access Australia Ltd (ABN 93 069 766 310) for the supply of the elevated working platforms; and**
 - **Toyota Finance Australia Limited (ABN 48 002 435 181) nominated by Prestige Hino for the associated leasing of the two elevated working platform vehicles.**

The leasing contract is for a seven year fully maintained operating lease. The estimated contract cost for the seven year term is \$762,552 (including GST). The cost to Council after the return of the GST Tax Input Credits is \$693,229.

2. To authorise the Director Environment and Infrastructure to execute the contract lease agreement with the above contractor.
3. To note that expenditure under this contract in 2019-2020 is in accordance with Council's adopted budget and expenditure in future years will be in accordance with the approved budget allocations.

CARRIED

7.5 Revised Instruments of Delegation to Members of Council Staff and the Chief Executive Officer

Instruments of Delegation represent the formal delegation of powers by Council under Section 98 of the *Local Government Act* 1989 and enable the business of Council to be carried out efficiently and in line with Council approved policies.

Council subscribes to the Maddocks Authorisations and Delegations Service, which provides advice regarding legislative amendments and the provision of template instruments which are then tailored to organisational requirements.

The previous version of the Instrument of Delegation to Members of Council Staff was executed on 25 February 2019. The revised instrument reflects minor legislative changes and amendments suggested by Maddocks as part of their continual review processes and previous review requests from Council.

The previous version of the Instrument of Delegation from Council to the Chief Executive Officer was also executed on 25 February 2019. There have been no changes made to the instrument which is presented to Council for adoption for administrative reasons, ensuring it remains current and up to date.

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That Council resolve that:

- A. **In the exercise of the powers conferred by section 98(1) of the *Local Government Act* 1989 (the Act) and the other legislation referred to in the Instrument of Delegation to Members of Council Staff:**
 1. **Members of Council Staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to Members of Council Staff (Attachment 1 as annexed to the minutes) are delegated the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.**

2. **The Instrument comes into force immediately after the common seal of Council is affixed to the Instrument.**
 3. **On the coming into force of the Instrument, the previous Instrument of Delegation to Members of Council Staff that was executed on 25 February 2019 is revoked.**
 4. **The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be exercised, in accordance with any guidelines or policies of Council that it may from time to time adopt.**
- B. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached Instrument of Delegation to the Chief Executive Officer:**
1. **The person holding the position, acting in or performing the duties of Chief Executive Officer are delegated the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer (Attachment 2 as annexed to the minutes), subject to the conditions and limitations specified in that Instrument.**
 2. **The Instrument comes into force immediately after the common seal of Council is affixed to the Instrument.**
 3. **On the coming into force of the Instrument, the previous Instrument of Delegation to the Chief Executive Officer that was executed on 25 February 2019 is revoked.**
 4. **The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.**
 5. **It is noted that the Instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.**

CARRIED

7.6 Revised Instruments of Appointment and Authorisation (Statutory Planning)

The appointment of authorised officers enables appropriate staff within the organisation to administer and enforce various Acts, regulations or local laws in accordance with the powers granted to them under legislation or a local law.

Instruments of Appointment and Authorisation are prepared based on advice from the Maddocks Authorisations and Delegations Service.

Whilst the appointment and authorisation of authorised officers under other relevant legislation is done by the Chief Executive Officer under delegation, Maddocks recommend that officers enforcing the *Planning and Environment Act 1987* be authorised by Council resolution.

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That Council resolve, in the exercise of the powers conferred by section 224 of the *Local Government Act 1989* and section 147(4) of the *Planning and Environment Act 1987*, that:

- 1. The members of Council staff referred to in the Instrument of Appointment and Authorisation (Attachment 1 as annexed to the minutes) be appointed and authorised as set out in the Instrument.**
- 2. The Instrument comes into force immediately once the common seal of Council is affixed to the Instrument, and remains in force until Council determines to vary or revoke it.**
- 3. The Instrument of Appointment and Authorisation be sealed.**

CARRIED

7.7 Amenity Local Law Sunset Review

The purpose of the report is to inform Council of the draft Amenity Local Law 2019 and obtain consent to commence community consultation and the statutory process in accordance with section 119 of the *Local Government Act 1989*.

The Amenity Local Law 2009 is one of six local laws created by Council under the *Local Government Act 1989*. The purpose of the Amenity Local Law 2009 is to protect the amenity, community safety and the local environment. The Amenity Local Law 2009 is due to sunset on 25 December 2019, necessitating its update and renewal.

This report presents a draft Amenity Local Law 2019 (Attachment 1), resulting from a comprehensive review of the existing Amenity Local Law 2009 (Attachment 2). The review looked to examine gaps, issues and opportunities, in addition to achieving improved drafting for the purpose of clarity in the application of the Local Law. Specifically, the objectives of the review were:

- To explore the feedback and experiences of key stakeholders including officers from Local Laws and other relevant departments in relation to the relevance, utility, clarity and enforceability of the Amenity Local Law; and
- To apply a best practice approach throughout the review process, including compliance with the *Local Government Act 1989* and other relevant legislation, guidelines and standards.

The review responds to the needs of the community, as informed through service requests, customer interactions with officers when conducting infield duties (such as park patrols) and feedback gained through engagement opportunities.

Other key stakeholders, including local laws officers, have been regularly consulted throughout the process of the review in order to understand any implementation issues, challenges or opportunities relevant to the Amenity Local Law 2009 and its enforcement.

A range of internal departments across Council were consulted, including; Asset Management, Economic Development, Building Services, Parks and Infrastructure Services, Customer Service, Statutory Planning, Health, Active Ageing and Disability Services, Traffic and Transport and Environment and Sustainable Living. The draft Amenity Local Law 2019 was also reviewed by Council's lawyers.

The review has resulted in proposed amendments to existing clauses and definitions and the introduction of new clauses and definitions for improved drafting and to reflect community expectations, objectives of Council and legislative enforceability.

The draft Amenity Local Law 2019 consists of 6 Parts (A-F). A summary of the proposed improvements are listed under each part in (Attachment 3). The review of the existing Amenity Local Law 2009 also identified the opportunity to remove some clauses from the existing Local Law a summary of these are also provided in (Attachment 3). In addition, all changes to the existing Amenity Local Law 2009 are further described in table 1 of the Table of changes (Attachment 4) with justification provided for each.

The introduction of some of these new clauses may result in operational, financial and/or risk implications. Enforcement is also likely to require regular inspections and the identification of any failures in compliance. Moreover, council works may be required where a person fails to comply with any new provision. The report considers the potential risks and implications associated with each newly proposed clause.

When considering other matters relating to dogs and cats, it was also determined Council's Order, made under Section 26 of the *Domestic Animals Act* 1994, was the appropriate means for enforcement. This included a newly identified provision to limit the number of dogs which could be walked by a single person at any one time and the requirement for dogs to be leashed on or near a shared path. These matters will therefore be addressed in due course for inclusion in Council's Order.

In summary, the proposed changes outlined in this report and the accompanying documents including the draft Amenity Local Law 2019 (Attachment 1) and the Local Law Community Impact Statement (LLCIS) (Attachment 5), are designed to achieve improved clarity, relevance, utility and enforceability of the Amenity Local Law from its renewal upon sunset.

MOTION

Moved Councillor Hurd

Seconded Councillor Wegman

That Council resolve:

- 1. Commence the statutory process in accordance with section 119 of the *Local Government Act 1989* to make the *Amenity Local Law 2019*.**
- 2. Authorise Council officers to give notice of Council's intention to make the Local Law (including the preparation of a Community Impact Statement).**
- 3. Authorise Council officers to conduct a Community consultation process, inviting submissions in relation to the proposed *Amenity Local Law 2019*.**
- 4. A report, detailing submissions received in relation to the proposed Local Law, be presented to a future Council meeting.**

CARRIED**8. General business****8.1 Business Boroondara Breakfast**

Councillor Hurd congratulated the Economic Development Department for organising the Business Boroondara Breakfast with Professor Alan Duffy on 10 September 2019. The event held at the Hawthorn Arts Centre invited businesses to hear from the Swinburne astronomer and Lead Scientist of the Royal Institution of Australia, regarding the current updates on how space technologies and services could be applied to their business.

The Mayor, Councillor Addis concurred with Councillor Hurd's comments.

8.2 Lewin Reserve

Councillor Ross advised her colleagues that she attended the unveiling of Lewin Reserve on 15 September 2019, named after former City of Hawthorn Councillor Mr John Lewin. Councillor Ross noted that it was a well-attended event by community members and Mr Lewin's family.

9. Urgent business

Nil

10. Confidential business

Nil

The meeting concluded at 6.53pm

Confirmed

Chairperson

Date
