

imprisonment and \$100 000 fine

Kylie Gaston

Sun 12/07/2020 2:53 PM

To: David Owen <DOwen@warrnambool.vic.gov.au>;

Cc: Councillors <Councillors@warrnambool.vic.gov.au>; Graham Shiell [REDACTED];

Hi David,

I am very sorry you sounded so worried and distressed on the phone. As requested, here is the chronology of events in regards to seeking legal advice to ally both your and [REDACTED] fears.

I find it astonishing the Mayor has rung to say we could potentially face 5 years jail and a \$100 000 fine for misuse of Council funds.

It is my belief we have done nothing wrong.

I contacted [REDACTED], Local Governance Lawyer with the MAV in February and was told by her only a majority of councillors could remove a CEO and only a majority of Councillors could receive legal advice.

At the time I sent her Mr Schneiders contract of employment for her perusal (after receiving it personally from Mr Schneider at my request).

[REDACTED] then sent it on to Maddocks contract lawyer, [REDACTED], to be on hand, if a majority of council decided to act. No advice was requested or received.

This is all documented via email trail.

At the time there did not eventuate a majority and so it was June when Cr Neoh contacted Maddocks, they were apprised of the situation, and, as we were acting as a majority of council, agreed to give us legal advice.

They did this by suggesting three Notice of Motions over two weeks as Mr Schneider refused the first two as being too vague.

Once the final NOM was accepted, Cr Neoh informed the Mayor of the legal advice. Cr Herbert then asked Maddocks for the legal advice himself.

Why would Maddocks give us legal advice if they thought we had no right to it?

We followed every step according to the advice we received and at no time did we think we were breaking any laws.

On the 8th of July we were informed by the Mayor, he believed, having sought advice from Macquarie lawyers that we did not have the right to the legal advice. He stated in his email that,

"any further enquiries about the subject matter of the previously requested legal advice should be directed to Council's Governance support, Graham Shiell who will either provide the advice or obtain advice from the appropriate resources."

As a consequence we ceased communication with Maddocks, instead seeking advice from Graham Sheills, as directed by the Mayor.

Curious about the ambiguity in regards to the payment issue the Mayor had raised, I asked Mr Sheills to contact Maddocks to clarify the situation and he replied he could only pass on the request to Mr Utri as he is not an Officer of Council.

We have not seen an invoice, nor been asked to pay one.

I cannot believe our documented actions could qualify us for a \$100 000 fine – from whom I wonder? Nor that any of this would warrant 5 years imprisonment.

I am dismayed and concerned the Mayor has implicitly threatened you with this (as a friend) when he knows you are in a fragile state with your health and currently receiving radiation treatment. I am confounded he intended to come to your house to also warn (alarm) your family.

I also note that it would appear the Mayor has not sought to provide this advice to Cr Neoh, Cr Cassidy or myself – I would of thought a warning of this magnitude should be advised to all councillors?

I shall copy this to all Councillors and Graham Sheills.

Please take care of yourself and [REDACTED] and do not be alarmed. Try and put this out of your mind for today.

Kylie

Kylie Gaston | Councillor |
Warrnambool City Council | 25 Liebig Street Warrnambool 3280 | P.O Box 198 Warrnambool 3280
T: +61 355594800 | M: +61 437623715 | F: +61 355594900 | E: KGaston@warrnambool.vic.gov.au
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