

# CITY OF JOONDALUP

## MINUTES OF SPECIAL ELECTORS MEETING HELD ON FRIDAY 20 SEPTEMBER 2002 IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP

### ATTENDANCES

#### Mayor

J BOMBAK, JP

#### Elected Members:

Cr D CARLOS	Marina Ward
Cr C BAKER	Marina Ward
Cr J F HOLLYWOOD, JP	North Coastal Ward
Cr A NIXON	North Coastal Ward <i>from 1905 hrs</i>
Cr A WALKER	Pinnaroo Ward
Cr T BARNETT	South Ward
Cr M O'BRIEN, JP	South Ward
Cr J HURST	Whitfords Ward
Cr C MACKINTOSH	Whitfords Ward

#### Officers:

Chief Executive Officer:	D SMITH
Director Planning & Community Development:	C HIGHAM
Director, Infrastructure & Operations:	D DJULBIC
Acting Director, Corporate Services and Resource Management:	A SCOTT
Manager, Marketing, Communications & Council Support:	M SMITH
Manager Approvals, Planning and Environmental Services:	C TERELINCK
Publicity Officer:	L BRENNAN
Committee Clerk:	J AUSTIN
Minute Clerk:	L TAYLOR

### APOLOGIES

Apologies:	Crs Rowlands, Kenworthy and Patterson
Leave of Absence, previously approved:	Crs Kadak and Kimber

132 persons signed the attendance register to record their attendance. There was 1 member of the press in attendance. *For Attendance lists, click here:* [Attach1min020920.pdf](#)

The Mayor opened the meeting at 1900 hrs, and welcomed members of the public.

## PURPOSE OF MEETING

This meeting has been called in accordance with the provisions of Section 5.28 of the Local Government Act 1995 to discuss the adverse impacts of Council's approval for the over development of the Mullaloo Tavern site and the failure of Council to abide by the provisions of the City's District Planning Scheme No. 2 in granting approval for the development without due consideration of the following items listed in Parts 4.5 and 6.8 of the Scheme:

- (a) the interests of orderly and proper planning and the preservation of the amenity of the Mullaloo locality;
- (b) Planning Policy 3.1.9 – Height and Scale of Buildings within a Residential Area adopted under the provisions of Clause 8.11;
- (c) the comments or wishes of the objectors to the application;
- (d) the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development, including the loss of \$200,000 in cash in lieu of parking payments from the developer;
- (e) other matters raised from the floor regarding the expectations of the residents of Mullaloo and other localities regarding the possible adverse affects on the amenity of the area around the Mullaloo Tavern site.

This meeting was advertised in The Joondalup Community News on Thursday 5 September 2002 and Thursday 19 September 2002.

The Mayor outlined the voting entitlements at this Special Meeting of Electors, and the definition of 'elector' as given within the Local Government Act 1995.

The Chief Executive Officer advised the meeting that on the afternoon of Thursday 19 September 2002 the City's solicitors, Watts Woodhouse, were served with a Writ of Summons from the Supreme Court of Western Australia regarding the Mullaloo Tavern development. The Writ was served by Lawyers, Hardy Bowen, on behalf of Rennet Pty Ltd. John Woodhouse, solicitor, acting on behalf of the City arranged a telephone conference with senior personnel of Council, including the CEO, and advised that it would be necessary for the City to engage a legal practice specialising in litigation and for Senior and Junior Counsel to be instructed on this matter. Kott Gunning, Lawyers, were briefed today (20 September 2002) and have been given the authority to engage both Junior and Senior Counsel to act on behalf of the City.

*Cr Nixon entered the Chamber at 1905 hrs.*

The Chief Executive Officer advised that a copy of the Writ of Summons was sent by courier to all Elected Members today and this has permitted all Elected Members to have in their possession a copy of the Writ of Summons prior to this Special Meeting of Electors being held this evening. In brief, the Chief Executive Officer advised that the particulars of damages that the Plaintiff claims they will suffer are:

- 1 The loss of the development as proposed in the application for planning approval;

- 2 The inability to open the premises under the liquor licence for the summer trading in 2003, particulars whereof will be rendered separately;

and the Plaintiff has claimed five individual points, which are as described in the documentation by the Writ of Summons, being:

- 1 A Declaration that the Resolution is valid and effective;
- 2 A Declaration that the Defendant lacks power to rescind the Resolution;
- 3 An Injunction to prevent the Defendant from purporting to make a decision on the Rescission Notice;
- 4 A Mandatory Injunction to compel the Defendant to convey the Resolution to the Plaintiff pursuant to the Scheme;
- 5 Costs.

The Chief Executive Officer advised that the Office of the Minister for Planning (Planning Appeals) has also been advised of the Writ of Summons served on Council and the Acting Director has formally written to Council and indicated that in his opinion the Minister will take no further action in respect of the complaint under Section 18.2 of the Town Planning and Development Act until the Court action has been finalised. A copy of the letter from the Acting Director has been circulated to all Elected Members.

The Chief Executive Officer advised that as a result of the Summons served on Council, any questions which are asked at this evening's Special Meeting of Electors which are considered to be of a legal nature, or any matter that could act upon or compromise Council's position, will be taken on notice. The City's solicitors have also advised, as a result of questions raised by a number of Elected Members, that this Special Meeting of Electors should proceed.

## **PUBLIC QUESTION TIME/MOTIONS**

**MOVED Keith Pearce, 19 Kilarney Heights, Kallaroo SECONDED David Newton, 8 Marjorie Street, Mullaloo that We, the Electors of the City of Joondalup Move that any development approval for the Mullaloo Tavern by the Council:**

- 1 **restrict the height to its existing level;**
- 2 **so as not to aggravate the shortage of parking in the area, all bays be provided on site;**
- 3 **that no discretion be used in reducing setbacks;**
- 4 **development should be in accordance with the development standards of Town Planning Scheme No 2.**

The following persons spoke to the Motion:

- Mr Graham Brown, 10 Oceanside Promenade, Mullaloo;
- Ms Mnique Moon, 6 Carew Place, Greenwood
- Ms Christine Branson, 23 Atoll Court, Mullaloo;
- Ms Catherine Woodmass, 25 Calbourne Way, Kingsley;
- Ms Lyndsey Dawson, 6 Curl Court, Kallaroo;
- Mr Michael Caiacob, 7 Rowan Place, Mullaloo;
- Mr Mark Branson, 23 Atoll Court, Mullaloo;
- Mrs M Zakrevsky, 49 Korella Street, Mullaloo;
- Mr Robin Wheelwright, 6 Livonia Place, Mullaloo;
- Mr S Magyar, 31 Drummer Way, Heathridge.

**The Motion was Put and**

**CARRIED**

**MOVED Helen Kraus, 6 Bluewater Rise, Mullaloo** that We, the Electors of the City of Joondalup Move that Lot 1 Oceanside Promenade, Mullaloo be included into Tom Simpson Park proper.

The Mayor stated this Motion did not fall within the purpose of the meeting and ruled the Motion **Out of Order**

**Ms Helen Kraus, 6 Bluewater Rise, Mullaloo:**

*Q1 Why was the motion which was previously raised and passed at the last Special Meeting of Electors held at Mullaloo on 18 March 2002, to the effect that Lot 1 Oceanside Promenade, Mullaloo be included into Tom Simpson Park proper, not raised as a motion to Council?*

*A1 This question will be taken on notice.*

**Mr David Newton, 8 Marjorie Street, Mullaloo:**

Mr Newton stated that, as the person who had submitted the petition requesting this Special Meeting of Electors, he had not intended that the subject matter of the meeting be restricted just to the Mullaloo Tavern site, but to the impact on the general amenity of the area.

**MOVED Steve Magyar, 31 Drummer Way, Heathridge** that the Meeting dissents with the Chairman's ruling and calls upon the Chairman to allow the previous motion to be Put.

The Mayor, in accordance with legal advice received on 20 September 2002, ruled the Motion **Out of Order**

## **CLOSE OF BUSINESS**

There being no further business, the Mayor declared the meeting closed at 1955 hrs.

