



**MINUTES OF COUNCIL MEETING
HELD ON 19 AUGUST 2003**

In accordance with Clause 5.6 of the City's Standing Orders Local Law and the requirements of the Local Government Act 1995, Items C174-08/03 and C175-08/03 were discussed behind closed doors. Therefore only the resolutions carried by the Council are available for public inspection, unless otherwise resolved by the Council, in accordance with Clause 7.2 of the City's Standing Orders Local Law.

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CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 19 AUGUST 2003

OPEN AND WELCOME

The Mayor declared the meeting open at 1900 hrs.

ATTENDANCES

Mayor

D CARLOS

Elected Members:

Cr L PROSPERO	Lakeside Ward	<i>Absent from 2043 hrs to 2044 hrs;</i>
Cr P KIMBER	Lakeside Ward	<i>Absent from 2057 hrs to 2058 hrs;</i>
Cr C BAKER	Marina Ward	<i>Absent from 2047 hrs to 2046 hrs;</i>
Cr T BREWER	Marina Ward	<i>from 1907 hrs;</i>
Cr A NIXON	North Coastal Ward	<i>Absent from 2214 hrs to 2221 hrs;</i>
Cr J F HOLLYWOOD, JP	North Coastal Ward	
Cr A WALKER	Pinnaroo Ward	<i>from 1906 hrs; Absent from 2157 hrs to 2201 hrs;</i>
Cr P ROWLANDS	Pinnaroo Ward	<i>to 0012 hrs; Absent from 1938 hrs to 1940 hrs;</i>
Cr S HART	South Ward	
Cr M O'BRIEN, JP	South Ward	<i>Absent from 1923 hrs to 1927 hrs and from 2014 hrs to 2027 hrs;</i>
Cr G KENWORTHY	South Coastal Ward	<i>Absent from 2018 hrs to 2023 hrs; from 2134 hrs to 2136 hrs; from 2202 hrs to 2203 hrs; from 2238 hrs to 2240 hrs; and from 2319 hrs to 2320 hrs;</i>
Cr J GOLLANT	South Coastal Ward	<i>Absent from 2017 hrs to 2026 hrs and from 2314 hrs to 2320 hrs;</i>
Cr M CAIACOB	Whitfords Ward	
Cr C MACKINTOSH	Whitfords Ward	<i>Absent from 2050 hrs to 2051 hrs and from 2311 hrs to 2319 hrs.</i>

Officers:

Chief Executive Officer:	D SMITH	<i>Absent from 2358 hrs to 0010 hrs;</i>
Director, Planning & Community Development:	C HIGHAM	
Director, Infrastructure & Operations:	D DJULBIC	<i>Absent from 2358 hrs to 0010 hrs;</i>

Director, Corporate Services and Resource Management:	P SCHNEIDER	
Manager Audit and Executive Services:	K ROBINSON	
Manager, Marketing Communications & Council Support:	M SMITH	<i>Absent from 2358 hrs to 0010 hrs;</i>
Manager, Community Development:	G HALL	<i>to 2314 hrs;</i>
Manager, Strategic & Sustainable Development:	R HARDY	<i>to 2314 hrs;</i>
Manager, Assets & Commissioning:	C SMITH	<i>to 2314 hrs;</i>
Manager, Craigie Leisure Centre	G TAYLOR	<i>to 2314 hrs;</i>
Publicity Officer:	L BRENNAN	<i>to 2314 hrs;</i>
Committee Clerk:	J HARRISON	
Minute Clerk:	L TAYLOR	<i>Absent from 2358 hrs to 0010 hrs;</i>
Minute Clerk:	G KELLY	<i>to 2315 hrs;</i>

There were 68 members of the Public and 1 member of the Press in attendance.

In Attendance

Mr Nick Manifis - Walman Software

PUBLIC QUESTION TIME

The following questions, submitted by Mr M Sideris, Mullaloo, were taken on notice at the Meeting of Council held on 29 July 2003:

Q1 Re: Warrant of Payments – Cheque No. 49299 Can you please advise me what service was provided to the City of Joondalup for the Solicitors fees to be paid?

A1 Cheque No 49299 was a payment made to Blake Dawson Waldron in relation to legal advice for the CEO as approved by Council - CJ139-06/03 refers.

The following question, submitted by Mr R de Gruchy, Sorrento, was taken on notice at the Meeting of Council held on 29 July 2003:

Re: Redevelopment of the Craigie Leisure Centre

Q1 On the supposition that the suggested changes are made to the gymnasium, what arrangements have been made to accommodate the gym users whilst the gym is being rebuilt?

A1 Arrangements will be made within the facility to relocate the gym. Operations are intended to be maintained in full wherever possible.

The following question, submitted by Mr J McNamara, Sorrento, was taken on notice at the Meeting of Council held on 29 July 2003:

Re: Previous questions concerning the appointment of Mr Denis Smith to the position of CEO at the City of Joondalup on the recommendation of recruitment agency Management Recruiters Australia.

Q1 In response to a previous question at the last Council Meeting the reply recorded in the Minutes tonight states that the City has used Management Recruiters Australia five times since the appointment of the CEO at a total cost excluding disbursements of \$52,800. As this figure is in excess of the \$50,000 specified in the Local Government Act requiring contracts of this size to be advertised for tender, was Council in breach of the Act by using Management Recruiters Australia under these conditions?

A1 Whilst the total value of appointments awarded to this firm is in excess of \$50,000, the appointments were independent of each other and therefore regarded as separate contracts. Recruitment requirements emerged resulting from internal movements and resignations of senior staff that could not be programmed to expect that this level of expenditure was to be achieved by the City. No breach of the Contract and Procurement provisions of the Local Government Act is evident.

The following question, submitted by Ms M Apthorpe, Ocean Reef, was taken on notice at the Meeting of Council held on 29 July 2003:

Q1 Why are there no public toilets in the three and a half kilometres of coastal reserve and parks between Burns Beach and the Ocean Reef Boat Harbour and what is Council going to do about it?

A1 Provision of a toilet block for the Iluka Foreshore Park has been approved in the 2003/2004 Budget and will be constructed in this financial year.

The following question, submitted by Ms K Woodmass, Kingsley, was taken on notice at the Meeting of Council held on 29 July 2003:

Re: Items CJ181, CJ182 and CJ183

Q1 Can I ask why they are confidential and is that within the Act?

A1 The Section 5.23 (2)(1) of the Local Government Act 1995 allows for a Council meeting to be closed to members of the public where the matter to be considered affects an employee.

The following question, submitted by Mr T O'Brien, Padbury, was taken on notice at the Meeting of Council held on 29 July 2003:

Q1 Are Councillors aware that the Padbury & Mullaloo Community Kindergartens were offered two different lease formats that have no bearing and consistency to the fact in the Schools Education Act 1999 and Regulations and that in truth the lease sent to the Padbury Community Kindergarten was titled Padbury Playgroup Peppercorn Lease.

The Act in principle is Part Five – Community Kindergartens Sections 911 to 212 detailing licenses, committee and corporate funding which is received from the State, Auditing and Functions in Curriculum and Teacher’s Supplies and Staffing. I need this answer in the next fourteen days.

A1 The question is unclear.

Q2 *A question on 12 June 2003 asked, “What was the legal ramifications of any management group that was part of the labour hire for the CEO’s office?” The answer was that the comments were noted and the questions were to be asked of the lawyers. I would like to know if there has been a return in relation to those questions.*

A2 A person who provides services for a fee to the City will generally do so under a contract, whether written or oral. In that case, the person would have legally enforceable obligations to provide the service in accordance with the express or implied terms of the contract. A failure to do so may entitle the City to sue for breach of contract.

The following questions, submitted by Mr T O’Brien, Padbury, were taken on notice at the Special Meeting of Council held on 20 May 2003:

Q1 *Would a legal context be held that if the management group that actually researched the candidate as a fee stipend in relation to its services can be held legally liable if it embellished, changed or altered the degree of performance, past criteria or performance standard of that person? Would the Council then be able to sue that company in regards to the fact that we as ratepayers have paid for a service that was inefficient?*

A1 Whether, in a particular case, a person providing services for the City under a contract, has breached the terms of the contract would require a detailed analysis of both the relevant facts and the relevant contractual terms. In the absence of sufficient factual details in this hypothetical case, it is not possible to provide more particular advice about the service provider's potential liability or the City's potential rights.

Q2 *Would that then result in the legal proceedings against the candidate who had the successful point brought of his application or his tenure then the contract would be null and void and a legal proceeding then issued from that?*

A2 It does not follow, as a matter of law, that a breach of contract by a person providing information to the City involving a proposed contract of employment, would affect the validity or continuing operation of the ensuing contract of employment.

The following questions, submitted by Mr S Magyar, Heathridge, was taken on notice at the Meeting of Council held on 29 July 2003:

Q1 *My question relates to CJ183-07/03 – Reimbursement of Legal Expenses to the CEO. Can I be informed what the current total of that account is at the moment when the \$11,000 has been added?*

A1 The amount paid to Blake Dawson and Waldron, without GST, is \$20,487.87. The most recent amount passed by Council is not included in this amount as it is subject to a rescission motion to be dealt with at the Council meeting to be held on 19 August 2003.

The following questions, submitted by Mr S Grech, Ocean Reef, were taken on notice at the Meeting of Council held on 29 July 2003:

Questions addressed to the Mayor:

Q1 At the Council meeting held on 8 July 2003, you stated you had “completed the investigation into the Conduct Unbecoming a Councillor” (Deputy Mayor Hollywood) is this correct?

A1 Yes.

Q2 Mr Mayor you were also quoted by the Western Australian – 23 July 2003, page 42 that you had “interviewed five people”. Name the five people concerned. If not, why not?

A2 I have received written statements from five people.

Q3 Mr Mayor as investigator, did you interview Mr Sam Grech, JP in relation to the complaint lodged “Conduct Unbecoming a Councillor”? If not, why not?

A3 No – not necessary.

Q4 Mr Mayor as investigator, was a report prepared detailing your interviews, outcome, conclusion and recommendations? If not, why not?

A4 No – not necessary.

Q5 Mr Mayor as investigator, will you make available to me and Council a copy this report and/or all materials, notes, etc that you have gathered regarding the complaint “Conduct Unbecoming a Councillor”? If not, why not?

A5 No.

Q6 Mr Mayor as investigator, did you declare a financial or non-financial interest in this investigation?

A6 The matter has not been the subject of a report for the consideration of the Council, therefore there are no ‘interest’ provisions that apply.

Q7 Mr Mayor as investigator, a conflict of interest and a non-financial interest appears to exist. Why have you not stepped down from this investigation and appointed a Council approved independent person to investigate the complaint “Conduct Unbecoming a Councillor”?

A7 There is no conflict of interest.

The following questions were submitted by Mr S Grech, Ocean Reef:

Questions addressed to the Mayor:

Q1 At the Council meeting held on 8 July 2003, you stated you had “completed the investigation into the Conduct Unbecoming a Councillor” (Deputy Mayor Hollywood) is this correct?

A1 Yes.

Q2 Will you make a copy available to me of your report? If not, why not?

A2 No.

Q3 Mr Mayor as investigator did you declare a financial or non-financial interest in this investigation. If not why not?

A3 The matter has not been the subject of a report for the consideration of the Council, therefore there are no ‘interest’ provisions that apply.

Q4 “Cr Hollywood, Cr Walker and yourself Mr Mayor are still under investigation for not declaring a financial interest”. This complaint was lodged with the Department of Local Government and Regional Development by me.

Mr Mayor as investigator, a conflict of interest and a non-financial interest appears to exist. Why have you not stepped aside from this investigation and allowed a Council appointed/approved independent person to investigate the complaint “Conduct unbecoming a Councillor”?

A4 There is no conflict of interest.

Mr R de Gruchy, Sorrento:

Q1 Re: Redevelopment of the Craigie Leisure Centre - Does Council intend to close the gymnasium during the redevelopment or does Council intend to utilise a function room or a basketball court during renovations to the building to temporarily house gym patrons? If it is proposed to modify a basketball court, what arrangements are intended to accommodate people who currently use the basketball courts?

A1 The gym will not be closed, it will be relocated to the function centre. There will not be any impact on the balance of the dry court facilities.

Q2 If the gym is relocated to the function centre, what arrangements are going to be made to accommodate people who use the function centre on a regular basis?

A2 The function centre is not one of the larger used areas within the facility and Council does have a number of facilities within the City of Joondalup that it will be able to relocate regular users.

Cr Walker entered the Chamber, the time being 1906 hrs.

Mr P Mak, Sorrento:

Q1 Is Council aware that the pedestrian footpath to Hillarys Boat Harbour adjacent to the Sorrento Beach Redevelopment has been blocked by drifting sand for the past six months and that elderly, disabled, mothers with prams and pedestrians have great difficulty visiting our number one tourist attraction?

A1 Council is not aware of that, but this information will be acted upon. Council will need to establish whether it is in the harbour reserve or Council's reserve.

Q2 Is Council aware that if there are any more delays to the Sorrento Beach Redevelopment the ratepayers will ask our Councillors to call a Special Electors Meeting to express our outrage?

A2 This comment is noted.

Crs Brewer and O'Brien entered the Chamber, the time being 1907 hrs.

Cr Baker left the Chamber, the time being 1907 hrs.

Mr A Davies, Sorrento:

Q1 It is my understanding that a rescission motion such as the Sorrento Beach item on tonight's agenda can only be moved by the person who submitted it, in this case Cr Walker, and that if Cr Walker does not move the motion tonight then the Sorrento Beach Redevelopment cannot go ahead?

A1 That is correct.

Q2 Is Cr Walker going to move that motion tonight?

A1 Cr Walker: Yes, Mr Mayor.

Ms M Macdonald, Mullaloo:

Q1 The CEO indicated in a report to Council on precinct planning at Mullaloo that traffic advice had been obtained from consultants before producing the preliminary concept plan for Mullaloo. Subsequent questioning revealed that the advice was verbal and that no written report had been produced. The Freedom of Information Commissioner has confirmed this stating "In normal circumstances I would not expect a State or Local Government agency to engage consultants to perform work without there being a record of the work performed." But later agreed after interviewing the consultants concerned "I accept the advice given to me by the consultants that their advice to the agency was verbal advice only." Given that statement can Council state when it expects a proper written verifiable accountable report on traffic issues in the Mullaloo Precinct and the surrounding suburb to be produced given that Council has approved an over development of the precinct centre?

A1 This question will be taken on notice.

Cr Baker entered the Chamber, the time being 1910 hrs.

Q2 Re: CJ189-08/03 – Bed & Breakfast at Laguna Rise, Mullaloo – Bed and Breakfast are not permissible in a residential zone and therefore the applicant is asking Council to exercise its discretion after considering the matters contained in 6.8 of the District Town Planning Scheme No.2. Can Council state why this report should not be considered an inadequate report as clearly not all of the matters in 6.8 have been considered?

A2 Council believes that the report is adequate as it addresses the matters raised in 6.8.1 of the Scheme and on Page 30 of the Agenda there is a summarised version of the submissions received and some comments on those submissions. Council believes the report covers those matters contained within 6.8.1.

Q3 Is it the intention of Council to put a curfew on visitors i.e., 8am to 8pm visitors can enter and exit these premises?

A3 The 8am to 8pm condition relates to their arrival and departure from the premises, it does not relate to people wanting to go out for dinner and then coming back.

Mr M Sideris, Mullaloo:

Q1 Re: Response received to a question asked at the last Council Meeting dealing with Fringe Benefits Tax and the legal fees paid by this Council for the CEO, Denis Smith. Has Council now received that FBT or legal advice, if not why not and when do you think Council will received it?

A1 Council at its last meeting resolved to seek advice in relation to the FBT liability. Subsequent to that a rescission motion was lodged which prevented Council seeking the advice. The matter is before Council tonight and depending on Council's decision, this will determine at what stage it can obtain the advice.

Q2 Council's response to the question I asked at the last Council Meeting re Warrants of Payment – Cheque No. 49299. The answer was, Cheque No. 49299 was payment made to Blake Dawson Waldron in relation to legal advice for the CEO as approved by Council. I repeat that question, what service, that is Goods and Services, were provided to the City of Joondalup?

A2 The services provided were legal services.

Mr R Smallpage, Sorrento:

Q1 This question is directed to Cr Walker regarding an article that appeared in today's Community News about the rescission to shelve the Sorrento Beach Redevelopment. In the article Cr Walker questions the extensive knowledge and expertise of the staff who have worked on this project and the expert advice of one of the largest corporate engineering firms in the State. Cr Walker, what qualifications and/or experience do you have to assume that you know better than the highly qualified people and secondly if you are not an engineer or a town planner where did you get the information from that make you so against this tender?

A1 *Response by Cr Walker:* I do not have any engineering qualifications, but I am here to make sure that ratepayers' money is spent wisely, that is why I questioned what Tensar was. I have now got information on what it is and I will speak about it tonight.

Mr J McNamara, Sorrento:

Q1 I refer to a previous question that I asked concerning Management Recruiters Australia. How much has the City spent with Management Recruiters Australia since Denis Smith was appointed, not only on recruitment, but also on fees charged for advice on the restructure of the Administration and other organisational matters?

A1 This question will be taken on notice.

Ms S Thewlis, Sorrento:

Q1 Re: Sorrento Beach Redevelopment – If it does not go ahead would that also include the boardwalk access being put on the groyne? The only other access for disabled is on the north side of Hillarys Marina which is very inaccessible and there are not many parking bays and only two disabled bays.

A1 The boardwalk access from Hillarys Boat Harbour is part of the design. If the project does not go ahead the boardwalk access will not be built. In relation to the boardwalk access to the groyne, this was taken out of the project design following public consultation last year, it was as a result of a number of objections that the groyne access was removed, however the project still provides a tremendous amount of access for the community including the elderly and the disabled.

Q2 Where is the access for the disabled going to be?

A2 There is a boardwalk access to Hillarys Boat Harbour that goes through a dunal system and that is still part of the design.

Q3 Is that in the same area or are you talking about the one on the north side of the breakwater?

A3 In the original design there were two proposals, the one on the groyne has been taken out, the boardwalk access to Hillarys Boat Harbour remains there.

C152 –08/03 EXTENSION OF QUESTION TIME – [01122]

MOVED Cr Hart, SECONDED Cr Baker that public question time be extended for a further period of ten (10) minutes.

The Motion was Put and

CARRIED

Cr O'Brien left the Chamber, the time being 1923 hrs.

Ms M Zakrevsky, Mullaloo:

Re: CJ144-07/03 and Mr A Bryant's request that the Honours Board listing the Mayor, Deputy Mayors and Councillors be moved from the passage to a place where they can be seen by the public.

Q1 Has his request been considered by the House Committee and what is the outcome?

A1 The House Committee did consider a request to move them from their existing location to within the public area but the matter was not supported. Since then there has been a number of other options explored but to date the House Committee has not considered those options.

Q2 Could a request be listed again for consideration as I asked this question in 1998 to Commissioner Ansell, and Mr Bryant has now asked for the Honours Board to be moved, because it is important that they be moved from behind closed doors?

A2 One of the options that is being explored is to open the foyer area up so that it has public access. The matter will be listed for the House Committee.

Ms P Krasevac, Mullaloo:

Q1 How many permanent residents can live in the house whilst it is running as a Bed & Breakfast? Council's recommendation does not state any limit on the number and the house has potentially five bedrooms.

A1 The recommendation limits the B&B to four guests, but presumably the operator of the B&B could have additional guests of her own.

Mr G Moar, Mullaloo:

Q1 Could every Councillor look me in the eye and honestly say they would be happy to have this type of business next to their own house?

A1 This question does not need an answer.

Cr O'Brien entered the Chamber, the time being 1927 hrs.

Mr D Cox, Mullaloo:

Q1 Can Council advise us when the noisy late night parties occurred, while the applicant's property has been leased over the past seven years which has apparently disturbed us and can Council guarantee that a B&B at the applicant's residence will not result in breaches of the Noise Abatement Act?

A1 If there is any breach of any noise provisions, Council will take the appropriate action to cease such activity.

Q2 I refer to the emails that were sent from Cr Mackintosh to other Councillors dated 17 August 2003. Can Council please advise us what an in/out driveway is and what advantages it has over a regular driveway and why it makes for very safe entry and exits to the property. Does the applicant have such a driveway?

A2 The number of vehicle movements are no greater than a typical resident in any other localities.

Mr and Mrs Voak, Mullaloo:

Q1 We ask the CEO whether it is common practice for a Ward Councillor to ignore ratepayers' requests for advice and help in regard to Council matters? Over the past two months since news of the B&B became public knowledge I have left many messages on the telephone of our Ward Councillor and have emailed with no response.

A1 Council is unable to answer that question as the emails and calls were directed to the Ward Councillor. It is at their discretion if they wish to reply or address the matter.

Cr Mackintosh: There were a number of phone calls that I received on my mobile phone in relation to the B&B but unfortunately unless the caller leaves a phone number there is no way of getting back to them.

Q2 As community consultation reflects, the residents of Laguna Rise have overwhelmingly objected to the Bed & Breakfast application through the proper channels. Why does the City support this application when all ratepayers are objecting? 19 submissions received from a street containing only 22 houses.

A2 Council will give consideration to this matter tonight and make a decision based on the information it has or any additional information it seeks as part of the consideration process.

Q3 Should the Bed & Breakfast application be granted, what is the position with regard to the B&B approval if the applicant was to put the property on the market in six months time? Does the B&B approval transfer with the sale of the property to new owners if the property is sold?

A3 Any approval goes with the land, not with an owner.

Mr S Magyar, Heathridge:

Q1 Re: Item 11 - Notice of Motion – Cr Walker – Sorrento Beach. I refer to the City's Strategic Plan where it makes a commitment to sustainability and triple bottom line accounting. Could this meeting be informed as to when Council ever evaluated the Sorrento Beach Project in terms of environmental, social and financial cost and benefits?

Cr Walker declared a non-financial interest which may affect her impartiality in Item CJ191-08/03 – Educational Establishment (Hospitality Training Centre – West Coast College of TAFE) Lot 500 (35) Kendrew Crescent, Joondalup as she is a student at Joondalup College of TAFE.

Chief Executive Officer declared a financial interest in C174-08/04 – Notice of Motion No 2 – Cr A Walker – Reimbursement of Legal Expenses – Chief Executive Officer as the matter impacts on his contract of employment/matters pertaining to CEO's employment.

C154-08/03 CONFIRMATION OF MINUTES

MINUTES OF COUNCIL MEETING, 29 JULY 2003

SPECIAL COUNCIL MEETING, 5 AUGUST 2003

MOVED Cr Baker, SECONDED Cr Kimber that the following Minutes be confirmed as a true and correct record:

- **Council Meeting – 29 July 2003**
- **Special Council Meeting – 5 August 2003**

The Motion was Put and

CARRIED UNANIMOUSLY (15/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Cr Rowlands left the Chamber, the time being 1938 hrs.

ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION

RATES NOTICES

Since rates notices were issued last week there has been a steady flow of residents into the City's Administration building to pay their rates. Our staff have also been kept busy answering ratepayer queries, many of them from pensioners. Pensioners and seniors are being assured that their concessions still apply – and the concession also applies to the emergency services levy, applied by the State Government.

Every household, and we have over 55,000 of them in our City, would have received budget news with the rates increase of 4%, which as always we have tried to keep to a minimum. However, the City to be financially responsible must raise revenue for such important projects as the rejuvenation of Craigie Leisure Centre.

In the coming months we will be spending \$8.1 million to turn this centre into a facility that will benefit all residents, something first-rate for the people of our City.

Also on the agenda is a new works depot for the City at the end of the freeway near Hodges Drive. The City needs a works depot and this major investment will pay dividends in future years.

We are now preparing the City's Annual Report in which we talk about other major projects like the planned Regional Performing Arts facility and the proposed development of the Ocean Reef Boat Harbour.

We will keep all residents fully informed of developments as they occur.

LA VITA RESTAURANT

At the weekend I had the pleasure of officially opening a new restaurant in the heart of the Joondalup CBD. La Vita has opened in the building formerly occupied by Stump Jump, Joondalup's first restaurant.

La Vita will specialise in Mediterranean food and we are hoping it will prove a real shot in the arm to the CBD. We welcome restaurant operator, Ivan Ivanovich, formerly of Hotel Astoria in Lucerne who promises to be "one of the best in Joondalup, for sure".

MIKE SMITH

For those who are now aware this is Mike Smith's last Council Meeting at the City of Joondalup, at least, for 12 months. Our Manager Marketing, Communications and Council Support is undertaking a 12-month employment exchange to the Town of Cochrane – 20 minutes outside of Calgary in Canada.

Mike says he is very appreciative of the City providing this fantastic opportunity. All Councillors will know of the good work Mike has done for the City and we wish him and his young family well on this 12-month exchange.

Cr Rowlands entered the Chamber, the time being 1940 hrs.

PETITIONS

C155-08/03

PETITIONS SUBMITTED TO THE COUNCIL MEETING - 19 AUGUST 2003

- 1 PETITION IN RELATION TO EXCESSIVE SPEED AND ANTISOCIAL DRIVER BEHAVIOUR – BENBULLEN BOULEVARDE, KINGSLEY – [48457] [00513]

A 55-signature petition has been received from Kingsley residents in relation to excessive traffic speed and antisocial driver behaviour.

Reference is also made to the condition of street lighting, kerbing and cement works.

The petition will be referred to both Infrastructure and Operations and Planning and Community Development for action.

2 PETITION IN RELATION TO THE CEO, MR DENIS SMITH – PAYMENT FOR LEGAL ADVICE IN RELATION TO HIS QUALIFICATIONS

A 93-signature petition has been received from residents of the City of Joondalup requesting that the City of Joondalup:

- 1 refuses any further requests made by the CEO Mr Denis Smith for payment of legal advice, representation or counsel in relation to matters dealing with his qualifications and experience as stated in his CV and other correspondence;
- 2 seeks the full reimbursement from Mr Smith of ratepayers' monies already granted for his personal legal advice, in relation to his qualifications;
- 3 upholds the City of Joondalup's current legal policy 2.2.8 – Legal Representation for Present and Former Elected Members and Staff of the City. This policy enables "the relevant person" to seek financial assistance in order to "defend" legal proceedings.

MOVED Cr Gollant, SECONDED Cr Baker that the petitions in relation to:

- 1 **excessive traffic speed and antisocial driver behaviour;**
- 2 **the CEO, Mr Denis Smith – Payment for legal advice in relation to his qualifications and the seeking of full reimbursement of monies already granted;**

be received and referred to the appropriate Business Units for action.

The Motion was Put and

CARRIED (14/1)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker **Against the Motion:** Cr Kimber

C156-08/03 **ALTERATION TO ORDER OF BUSINESS**

MOVED Cr Nixon, SECONDED Cr Kimber that the order of business for tonight's agenda be altered to enable the following Items to be dealt with as the first items of business:

C159-08/03 **Notice of Motion – Cr A Walker – Tender Number 044-02/03 – Sorrento Beach Redevelopment**

CJ192-08/03 **Proposed Bed and Breakfast: Lot 555 (9) Laguna Rise, Mullaloo**

The Motion was Put and

CARRIED UNANIMOUSLY (15/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

C157-08/03 ALTERATION TO ORDER OF BUSINESS

MOVED Cr Caiacob, SECONDED Cr Walker that Council in accordance with clause 3.2 of the City's Standing Orders Local Law that the Confidential reports relating to:

C173-08/03 Confidential - Motion To Lie On The Table – Notice Of Motion – Cr P Rowlands – Matters Relating To The Chief Executive Officer;

C174-08/03 Confidential - Notice Of Motion – Cr G Kenworthy - Potential Breach Of Standing Orders, Code Of Conduct And The Local Government Act 1995, Cr J Hollywood;

C175-08/03 Confidential - Notice Of Motion No 2 – Cr A Walker – Reimbursement Of Legal Expenses – Chief Executive Office;

be discussed after the conclusion of debate on the remaining reports, and prior to the item of business, 'Date of Next Meeting.'

The Motion was Put and

CARRIED (12/3)

In favour of the Motion: Mayor Carlos, Crs Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, O'Brien, Prospero, Rowlands and Walker **Against the Motion:** Crs Baker, Brewer and Nixon

C158-08/03 REQUEST FOR SECOND PUBLIC QUESTION TIME – [01122 02154]

MOVED Cr Hart, SECONDED Cr Walker that, in accordance with Clause 3.2 of the City's Standing Orders Local Law, a second public question time be permitted prior to the close of this evening's meeting in order that members of the public may ask questions in relation to decisions made at this meeting.

The Motion was Put and

CARRIED (12/3)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Hart, Hollywood, Kenworthy, Nixon, O'Brien, Prospero, Rowlands and Walker **Against the Motion:** Crs Gollant, Kimber and Mackintosh

C159-08/03 NOTICE OF MOTION – CR A WALKER – TENDER NUMBER 044-02/03 – SORRENTO BEACH REDEVELOPMENT – [68546]

Cr Allison Walker has given notice of her intention to move the following motion at the ordinary meeting of the Council to be held on 19 August 2003. The following elected members have indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr Allison Walker
Cr John Hollywood
Cr Sue Hart
Cr Michael Caiacob
Cr Mike O'Brien

“That Council RESCINDS, BY AN ABSOLUTE MAJORITY its decision of 29 July 2003 – Item CJ194-07/03 – Tender No 044-02/03 Sorrento Beach Redevelopment, viz:

“That Council ACCEPTS the alternative tender from Consolidated Construction Pty Ltd for Tender No. 044-02/03 Sorrento Beach Redevelopment:

- 1 for the lump sum price of \$911,100 exclusive of GST for the main part of the contract;*
- 2 for the lump sum price of \$988,900 exclusive of GST for the separable portion of the contract, subject to funds of \$950,000 being approved in the 2003/2004 Budget;*
- 3 subject to Consolidated Construction Pty Ltd providing a fully certified engineering design of the Tensar Reinforced Earth Retaining Walls and full construction details of the alternative submission for approval by the project designer prior to the commencement of ordering materials for construction.”*

And REPLACES it with the following:

“That Council:

- 1 DOES NOT ACCEPT the alternative tender from Consolidated Construction Pty Ltd for Tender 044-02/03 Sorrento Beach development;*
- 2 SHELVES the Sorrento Beach Development Project for a period of two years;*
- 3 WRITES to all the tenderers and thanks them for their input and tenders.”*

REASONS FOR MOTION:

Cr Walker has submitted the following in support of her motion:

- “1 the redevelopment of the Sorrento Beach Foreshore is inconsistent with our vision statement for a sustainable City, because the shifting sands up and down the coast will result in consistent and costly maintenance and upkeep.*
- 2 No proper Structural Engineering Details or plans have been submitted to Council for the alternative tender. It is irresponsible for Council to approve any project without adequate briefing and submission of specific engineering details, but essentially it is totally irresponsible to approve a beach front project that is not conforming to the specific tender, and which has replaced limestone blocks with rammed earth, without adequate detailed engineering specifications;*
- 3 Any upgrade of any foreshore should be the responsibility of the State Government Department of Planning and Infrastructure, and the West Australian Coastal Planning Council, which covers all matters that will occur from the high water mark to 200 metres inland. Council should not even be looking at this project because it is not within our jurisdiction.*

- 4 There has been no report regarding any consequence with regard to a native title claim Crown land.
- 5 Council has more pressing and important projects to fulfil before we go off tarring up a beach front.
- 6 With regards to our 5 year forecast, we are living beyond our means and there are things that need to be done – like the building of the Council depot, the construction of the Community Centres, and the reconstruction of the Craigie Leisure Centre, development of Ocean Reef Small Boat Harbour, and there are things that we would like to have, such as the Performing Arts Centre and the redevelopment of the Sorrento Beach. Our needs must take precedence over our wants. We need to cut our coat according to our cloth, and proceed with corporate projects only in line with our ability to fund them, and we need to prioritise them in line with the requirements of the entire community.”

OFFICER’S COMMENT

Coastal Processes and Maintenance Strategies:

The project designers have indicated that the proposed beach redevelopment has been designed so that it will not change the existing coastal processes. The groyne will stay the same length and have the same effect on the sand movement along the coast. The position of the waterline will vary over time as the beach responds to changing ocean conditions. It already does this and the redevelopment works are located sufficiently far landward to have a very low risk of erosion for the economic life of the structures. Whilst some isolated parts need to be located as close as possible to the beach for access and amenity, these structures have been protected to withstand the calculated erosion during very severe storms.

As currently exists prior to the redevelopment proposal, the issue of wind blown sand will need to be managed. The redevelopment plans include a fore dune with native vegetation to help trap the wind blown sand and minimise future maintenance activities. In addition to this the seaward retaining wall will also act as a sand trapping wall, which will have a maintenance corridor on the seaward side to enable excess sand drift to be trapped and then removed by mechanical means as required.

Access to the fore dune will be restricted with designated beach access points to protect the fore dune native vegetation.

It is also noted that sand drift fencing will be erected at the northern end of the development to address the sand drift problem currently being experienced within Hillarys Boat Harbour.

The redevelopment plan provides a responsible sand drift management strategy, which addresses current and future sand drift problems, endorsed by the various approval agencies.

Alternative Tender Submission

As outlined in the body of Council’s report CJ184-07/03 Sorrento Beach Redevelopment - Tender Report, the other tenderers have not been asked to price the alternative offered by Consolidated Constructions Pty Ltd in accordance with Clause 6.5 of AS4121-1994 Code of

Tendering States “Where a tender offers an alternative proposal, comparable prices for the alternative shall not be obtained by the Principal from other tenderers nor shall the alternative be used as the basis for the re-calling of tenders” and “Alternative tenders can only be considered when submitted with a conforming tender”. All tenders are evaluated in accordance with this Code.

Retaining Walls

The project designers have advised that the performance of the wall has not in any way been altered by the alternative tender. The required toe levels have not been changed. The limestone blocks have not been replaced with “rammed earth”, but with a combination of limestone blocks, mortar and Tensar Grid that binds the earth and the wall.

The use of reinforced earth wall technology is neither new nor experimental and has been used in Perth over the last 10 years.

The project designers have advised that the Tensar earth grid has been independently tested in WA and discussions have been held with the reinforced earth wall designer prior to the close of tenders and the required wall specifications and performance is well understood. The walls are all designed to comply with the Australian Standard for Earth Retaining Structures.

The project designer has advised that in principle, the use of reinforced earth walls is acceptable. The exact design details require approval before construction commences, to ensure all design requirements have been met. The reinforced earth walls have been used in a number of locations around Perth, the first walls being built in WA in 1992.

Major examples are:

- Graham Farmer Freeway adjacent to Belmont Racecourse exists a reinforced earth wall with limestone face blocks, which traverses approximately 500 metres in length and varies in height up to 6 to 7 metres.
- Canals development in Mandurah particularly Dawesville and Port Geographe. The walls in these locations are in the tidal zone and are subject to extreme conditions.
- Outlook Estate in Currambine has reinforced earth retaining walls utilising a slightly different keystone system. The Tensar grid is considered an improvement on this system.

Responsibility for Beach Re-development

The Sorrento Beach project is to be constructed on two portions of land as detailed below:

Reserve No. 27732 (closest to the road) - is crown land with a management order in favour of the City of Joondalup for Public Recreation

Reserve No. 20561 (closest to the water) - is crown land with a management order in favour of the City of Joondalup for Recreation and purposes incidental thereto.

These portions of land under management order to the City are to be developed in the area of Public Recreation and therefore the redevelopment works are the City's responsibility subject to obtaining the necessary approvals from the Western Australian Planning Authority (WAPC).

The approval process is carried out in the form of a Development Application, which is submitted to the WAPC, which then refers various aspects of the proposed development to the various responsible approval agencies for their comments, and ultimately the conditions for the final approval are set by the WAPC.

The approval for this development was granted by the WAPC on 4 April, 2003.

Native Title Search

The project designers advise that this issue was raised in a meeting with the Department of Planning and Infrastructure. Their response was that it was not considered an issue at the time, probably due to the impact from the adjacent harbour's development works on the naturally existing formation.

Not with standing this, checks have been carried out which has revealed that there are no aboriginal sites registered on the Aboriginal Sites Register for this location and no specific claim exists for this location.

Corporate Project Priorities

Council underwent a corporate project prioritisation strategy session during March, 2002. An exercise was undertaken by the Councillors based on a multi criteria analysis. The results of this exercise indicated at that time the Sorrento Beach Redevelopment Project was considered the first priority corporate project.

2003/2004 Budget Considerations

During the 2003/04 budget process the whole of Council budget committee allocated an additional \$950,000 towards this project which in addition to the 02/03 carry forward amount, results in a total budget allocation of \$1,900,000 which is sufficient for the stage one works to proceed.

The 2003/04 adopted Budget is a balanced budget based upon a 4% rate increase, which is consistent with other local government authorities within the Perth Metropolitan area. The Budget is based upon no loan borrowings, with a number of major projects being funded from reserve accounts.

The adopted Budget has a strong emphasis on major corporate projects in addition to Sorrento Beach, including \$8.1M for the redevelopment of the Craigie Leisure Centre, the purchase of land for a new Works Depot and the regional Performing Arts Centre and further feasibility works to be undertaken in relation to the Ocean Reef Harbour.

Shelving Project for Two Years

Advice from the approving authority - Western Australian Planning Commission (WAPC) reveals that after two years, the City would have to submit a new Development Application. The risk for Council is that the City may be required to revisit all aspects of the project including design, consultation and negotiations with the various approval authorities. These costs could vary up to in excess of \$100,000 subject to what the new development application requirements are as determined by the WAPC at that time.

It is also noted that there will be additional costs associated with recalling tenders and the project construction costs will also escalate in keeping with current market place trends.

Tender Validity Period

In accordance with the tender conditions the contractors tender including price shall remain valid for up to sixty (60) days from the date of tender closing.

The tender validity expiry date is 29 August, 2003, beyond which an extension may be sought by mutual agreement between the Principal and the Tenderer. The Tenderer has the right to seek price increases and/or withdraw his tender beyond the tender validity period.

VOTING REQUIREMENTS

Absolute Majority

Call for Support of one-third of members of the Council

The Mayor called for support from one-third of the members of Council. Support for this Item was given by Crs Walker, Hollywood, Hart, Caiacob and O'Brien.

MOVED Cr Walker, SECONDED Cr Hart that Council BY AN ABSOLUTE MAJORITY, RESCINDS, BY AN ABSOLUTE MAJORITY its decision of 29 July 2003 – Item CJ194-07/03 – Tender No 044-02/03 Sorrento Beach Redevelopment, viz:

“That Council ACCEPTS the alternative tender from Consolidated Construction Pty Ltd for Tender No. 044-02/03 Sorrento Beach Redevelopment:

- 1 for the lump sum price of \$911,100 exclusive of GST for the main part of the contract;
- 2 for the lump sum price of \$988,900 exclusive of GST for the separable portion of the contract, subject to funds of \$950,000 being approved in the 2003/2004 Budget;
- 3 subject to Consolidated Construction Pty Ltd providing a fully certified engineering design of the Tensar Reinforced Earth Retaining Walls and full construction details of the alternative submission for approval by the project designer prior to the commencement of ordering materials for construction.”

And REPLACES it with the following:

“That Council:

- 1 DOES NOT ACCEPT the alternative tender from Consolidated Construction Pty Ltd for Tender 044-02/03 Sorrento Beach development;
- 2 SHELVES the Sorrento Beach Development Project for a period of two years;
- 3 WRITES to all the tenderers and thanks them for their input and tenders.”

Discussion ensued.

Cr Mackintosh tabled a letter from Mr P Mak, Sorrento on behalf of ratepayers from the City – Appendix 8 refers.

Extension of Time to Speak

MOVED Cr Baker, SECONDED Cr O’Brien that Cr Kenworthy be permitted an extension of time to speak.

The Motion to Extend was Put and

LOST (7/8)

In favour of the Motion: Crs Baker, Caiacob, Kenworthy, Mackintosh, Nixon, O’Brien and Rowlands
Against the Motion: Mayor Carlos, Crs Brewer, Gollant, Hart, Hollywood, Kimber, Prospero and Walker

Discussion resumed.

MOVED Cr Kenworthy, SECONDED Cr Gollant that Motion BE NOW PUT.

The Procedural Motion was Put and

CARRIED (10/5)

In favour of the Procedural Motion: Mayor Carlos, Crs Brewer, Caiacob, Gollant, Hollywood, Kenworthy, Mackintosh, Nixon, Prospero and Rowlands
Against the Procedural Motion: Crs Baker, Hart, Kimber, O’Brien and Walker

Cr O’Brien left the Chamber, the time being 2014 hrs.

The Motion as Moved by Cr Walker, Seconded by Cr Hart was Put and

LOST (5/9)

In favour of the Motion: Mayor Carlos, Crs Caiacob, Hart, Hollywood and Walker
Against the Motion: Crs Baker, Brewer, Gollant, Kenworthy, Kimber, Mackintosh, Nixon, Prospero and Rowlands

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8min190803.pdf](#)

CJ192 - 08/03 PROPOSED BED & BREAKFAST: LOT 555 (9) LAGUNA RISE, MULLALOO - [27431]

WARD - Whitfords

PURPOSE

The purpose of this report is to request Council's determination of a development application to allow a Bed and Breakfast (B&B) to operate from 9 Laguna Rise, Mullaloo.

EXECUTIVE SUMMARY

The proposed B&B business intends to cater for a maximum of 4 guests at any time, which would require that two car bays be provided for guests in addition to the two car parking bays that are required for the residents. All car parking will be provided in the existing double garage and driveway.

Following an advertising period of 21 days with a sign on site and letters to adjoining property owners, a total of 14 submissions and one petition with 29 signatures opposing the proposal was received. Of the 29 signatures on the petition, 20 are from individuals who have also submitted written statements of objection.

The proposal was considered under Delegated Authority, however, the application was 'called in' by an Elected Member for determination by Council.

It is recommended that the proposed B&B business be approved as it is considered that its scale will not have a negative impact on the residential character of the area.

BACKGROUND

Suburb/Location: Lot 555 (9) Laguna Rise, Mullaloo
Applicant: Lisa Michelle Elder
Owner: Lisa Michelle Elder
Zoning: **DPS:** Residential
 MRS: Urban

DETAILS

Proposal and Applicant's Justification

The applicant has provide the following information (summarised) in support of the proposed B&B business:

- Bedrooms 3 & 4 are to be used to accommodate the B&B patrons.
- The maximum number of B&B guests at the premises at any one time is 4.
- Guests will be staying for a duration varying from 1 day to 6 days.
- Guests will be arriving/departing between the hours of 8am and 8pm.

- The only meal that will be provided is breakfast.
- A sign 20cm x 20cm is proposed to be erected at the front of the property.
- Car parking is provided on the driveway (8 metres wide) and in the garage (3 cars in the driveway and 1 in the garage).
- The width of the existing driveway is to be increased to accommodate 3 bays
- The pool and outdoor area will not be accessible to B&B guests.

Statutory Provision:

District Planning Scheme No 2 (DPS2)

A B&B is a 'D' use in a Residential area. 'D' use means:

“A use class that is not permitted, but to which the Council may grant its approval after following the procedures laid down by Sub clause 6.6.2”.

Clause 6.6.2 requires that the Council in exercising discretion to approve or refuse an application, shall have regard to the provisions of Clause 6.8, as follows:

6.8 Matters to be considered by Council

6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any Agreed Structure Plan prepared under the provisions of part 9 of the Scheme;*
- (d) any planning policy of the council adopted under the provisions of clause 8.11;*
- (e) any other matter which under the provisions of the Scheme the Council is required to have due regard;*
- (f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals.*
- (h) The comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) The comments or wishes of any objectors to or supporters of the application;*
- (j) Any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent provided that the Council shall not be bound by such precedent; and*
- (k) Any other matter which in the opinion of the council is relevant.*

Historically when exercising this discretion for a B&B, the City has granted the approval for a limited period of time only, generally 12 months. A new application is required following that period.

Associated Policies

There are no Council Policies associated with B&B accommodation.

Consultation:

The proposal was advertised to nearby owners by means of a letter and a sign on site for a period of 21 days.

A total of 14 submissions and one petition with 29 signatures opposing the proposal were received. Thirteen of the submissions are objections to the proposal and one is a statement of no objection. Of the 29 signatures on the petition, 20 are from individuals who had also submitted written statements of objections

The grounds for the objections can be summarised as follows:

Submissions Received	Technical Comments
1 A commercial activity such as a B&B is out of character with the residential nature of the area.	1 Due to its limited scale, the proposed B&B is considered to be consistent with expectations for a residential area.
2 Currently Laguna Rise is an area with a strong community sense, with neighbours knowing each other and children being able to move freely from home to home. The introduction of a B&B venture will introduce strangers and transient people into the area putting safety and security at risk.	2 There is no substantiation for this objection. The four transient people that will be attracted to the area by the proposed B&B are not considered to be any different from any other non-resident of the area (friends or business associates) visiting any one of the other 15 properties in Laguna Rise.
3 The street is a cul-de-sac and largely carries local traffic. The residents feel that a main road, such a Mullaloo Drive, rather than a cul-de-sac is a better location for a B&B.	3 While this view may have merit in instances where the B&B activity is on a large scale, the proposed B&B will generate a maximum of two additional cars, which is not considered to be an excessive load for a cul-de-sac.
4 There is a large number of young families living in the street, with many young children playing in the front yards of the homes and spilling into the street	4 See comment 3 above
5 A commercial venture such as a B&B will attract traffic that is not used to local conditions thereby endangering the families living in the area.	5 See comment 3 above

<p>6 A primary school is located at the end of the cul-de-sac which results in traffic congestion and parking problems in Laguna Drive at times and the introduction of a B&B would exacerbate the problem.</p>	<p>6 The proposed B&B would attract a maximum of two additional cars that will be required to be parked within the property boundary.</p>
<p>7 For the past 7 years the application site has been a rental. During this time there has been a number of incidents with the applicant relating to unruly behaviour and noise issues at the subject site (parties until late in the night). There has been a history of confrontation with this neighbour and adjoining neighbours are concerned that this owner will operate without regard to adjoining properties and therefore that an approval of a B&B venture would exacerbate the problems, with holiday makers on different time zones being at the property all year round.</p>	<p>7 Noted. However, this is not relevant to the current B&B application</p>
<p>8 The pool at the subject site is inadequately fenced.</p>	<p>8 City Officers inspected the pool area and found that it complies with the requirements.</p>
<p>9 There is concern as to how the City will be able to police that the pool is not used by guests.</p>	<p>9 The property owner has a responsibility to operate within the conditions of approval.</p>

COMMENT

The City does not have any DPS2 standards or Policy guiding the development of B&B establishments. Each proposal is therefore considered on its merit.

As the proposed use does not require any physical building works to be carried out, the application only requires that discretion in regard to the land use be exercised.

Likely impact of the B&B on the residential appearance of Laguna Rise

The proposed Bed & Breakfast will accommodate a maximum of 4 guests at any time increasing the total number of people in the dwelling to a maximum of 5 persons. This number of persons is in line with usual expectations of residential properties.

The proposed B&B will result in two additional vehicles being parked on site, with the maximum number of vehicles at the premises not exceeding 4. This number is not considered to be excessive for a residential property as this situation can easily arise when children of driving age still reside at home. Unlike other situations, the concerns relating to additional cars on site is further improved given that specified car parking spaces are provided on site.

Car parking will be provided in an existing driveway and the additional B&B use will not result in any structural changes being made to the dwelling. If approved a condition will be applied to ensure all parking associated with the B&B occurs on the driveway and garage and not on the verge.

As such the current residential appearance of the dwelling will be retained and given that the scale of the proposed use is limited, it is considered that the B&B will not have a negative impact on the residential appearance of Laguna Rise.

Likely impact of the B&B on the residential character of Laguna Rise

From the comments of the adjoining neighbours it appears that Laguna Rise has a strong sense of community spirit, which has promoted the current sense of safety and security that the residents fear they may lose with the introduction of a B&B.

Given the temporary nature of occupiers of rental properties, it can safely be assumed that most of the community spirit stems from the owner-occupiers in the street.

The subject site has been a rental property over the last 7 years. The owner is returning to the property as an occupier and will be depending on the B&B to generate an income. This is likely to improve the current level of stability of tenancy at the property.

Notwithstanding the above, the proposed B&B activity is considered to be a low-key activity. It is not considered that the scale of the activity is excessive for a residential area, given all characteristics of a residential property will remain.

It is therefore not considered that the B&B will compromise the residential character of the area.

Traffic Implications from the B&B

Located in close proximity to the primary school, Laguna Rise is already being used by school traffic.

The proposed B&B will generate two additional vehicles, for which parking is provided on site. The B&B therefore is not expected to create car parking problems in the area, nor is the additional traffic flow considered to be excessive in the context that Laguna Drive regularly carries the traffic of 16 residential properties, two of which accommodate two grouped dwellings.

Pool Security

Officers of the City have inspected the security fencing for the pool provided at the premises and have found it to be in compliance.

The applicant has excluded the use of the pool from the B&B operation as its inclusion would require that the pool comply with the Health (Public Swimming Pool) Regulations 1964 and be approved by the Executive Director of Public Health.

Conclusion

Many of the concerns raised by adjoining neighbours stem from previous experience at the subject site with the current owner and the potential adverse impact on the character of the residential area.

While the claims of the neighbours in regard to past activities at the subject site are noted, these claims are not associated with the operation of a B&B.

It is not considered that the proposed B&B will change the residential character of the area nor have an adverse impact on traffic flow into the area. However, given the concerns of the neighbours, it is appropriate to limit the approval for a period 12 months. This will allow the operation of the B&B to be reassessed after that period.

ATTACHMENTS

Attachment 1 Location Plan

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Mackintosh, SECONDED Cr Kenworthy that Council APPROVES the application dated 30 April 2003 submitted by Lisa Elders, the applicant and owner, to conduct a Bed & Breakfast on Lot 555 (9) Laguna Rise, Mullaloo, subject to the following conditions:

- 1 the maximum number of B&B guests not to exceed 4 persons at any one time;**
- 2 guest arrival/departures to be between the hours of 8am and 8pm only;**
- 3 this approval is valid for a period of 12 months from the date of the approval letter;**
- 4 car parking bays to be 5.4m in length and a minimum of 2.5m wide;**
- 5 a maximum of 2 cars associated with the B & B guests are permitted on the site at any one time;**

- 6 the driveway/crossover to be a minimum width of 7.5m and all parking of vehicles associated with the B&B is to occur on the driveway and garage only;
- 7 the pool is not to be used by the B&B guests;
- 8 the advertising sign not to exceed 20cm x 20cm in dimensions.

Footnote:

- 1 Please be advised that you are required to comply with the requirements of the Food Hygiene Regulations. An application to conduct food-handling activities from the residential premises is required to be lodged and approved by the City prior to commencement of operations.
- 2 With reference to condition 3 please note that the approval is required to be renewed if the Bed & Breakfast operation is to be continued prior to the expiry of this approval. A new application with fees is required to be lodged with the City in this regard.

Discussion ensued.

Cr O'Brien entered the Chamber, the time being 1927 hrs.

Extension of Time to Speak

MOVED Cr Hart, SECONDED Cr Baker that Cr Caiacob be permitted an extension of time to speak.

The Motion to Extend was Put and

LOST (6/9)

In favour of the Motion: Crs Baker, Caiacob, Hart, Nixon, O'Brien and Rowlands **Against the Motion:** Mayor Carlos, Crs Brewer, Gollant, Hollywood, Kenworthy, Kimber, Mackintosh, Prospero and Walker

Discussion resumed

During discussion, the following movements occurred:

*Cr Gollant left the Chamber at 2017 hrs and returned at 2026 hrs;
Cr Kenworthy left the Chamber at 2018 hrs and returned at 2023 hrs;
Cr Prospero left the Chamber at 2043 hrs and returned at 2044 hrs.*

The Motion as Moved by Cr Mackintosh, Seconded by Cr Kenworthy was Put and

CARRIED (9/6)

In favour of the Motion: Crs Brewer, Gollant, Hollywood, Kenworthy, Kimber, Mackintosh, Prospero, Rowlands and Walker **Against the Motion:** Mayor Carlos, Crs Baker, Caiacob, Hart, Nixon and O'Brien

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf120803.pdf](#)

**CJ186 - 08/03 SUPPLEMENTARY APPOINTMENT OF AUDITOR –
[43831]****WARD - All**

PURPOSE

The purpose of this report is to advise Council of the retirement of the City's external auditor and to seek Council's approval to appoint a nominated replacement to enable the completion of the 2002/03 audit.

EXECUTIVE SUMMARY

The City's external auditor, Mr Peter Messer of Deloitte Touché Tohmatsu has retired, effective 31 May 2003.

Deloitte have appointed Ms Leanne Karamfiles as partner and nominated her as the auditor for the City of Joondalup.

Council is required to formally appoint Ms Karamfiles as the City's auditor in order to finalise its 2002/03 financial year accounts.

It is recommended that Council:

- 1 In accordance with Section 7.3 of the Local Government Act 1995 appoints Leanne Karamfiles of Deloitte Touché Tohmatsu as auditor to the City of Joondalup for the 2002/03 financial year, with the appointment to be in accordance with the terms and conditions outlined in the Local Government (Audit) Regulations 1996.
- 2 Authorises the affixation of the common seal to and endorses the signing of the contract documents.

BACKGROUND

The Local Government Act 1995 (the Act) requires the accounts and annual financial report of a local government for each financial year to be audited by an auditor appointed by the local government (section 7.2).

At its meeting of 27 June 2000, Council appointed Mr Graham McHarrie and Mr Peter Messer of Deloitte Touché Tohmatsu as the City's auditors for the triennium covering the financial years 1 July 2000 to 30 June 2003.

The above appointment will conclude after the 2002/03 annual financial accounts have been audited and signed off by the auditor.

DETAILS

The City has recently been advised by Deloitte Touché Tohmatsu (Deloitte) that Mr Peter Messer has retired, effective 31 May 2003, and that due to internal policy on partner rotation between clients, Mr Graham McHarrie is not able to complete the City of Joondalup audit for the financial year ended 30 June 2003.

Deloitte have appointed Leanne Karamfiles as the replacement partner for Peter Messer and are seeking Council's approval to appoint her as the City's auditor, as required under Section 7.2 of the Act.

Deloitte have also confirmed that Leanne Karamfiles is a registered company auditor and is therefore eligible under Section 7.3 of the Act.

Ms Karamfiles was admitted to the Deloitte partnership in July 2003. She is a member of the Institute of Chartered Accountants Australia and has over 10 years auditing experience.

COMMENTS

Ms Karamfiles satisfies all of the audit criteria required under the Local Government Act (1995) and her appointment to complete the audit of the City's 2002/03 financial accounts is recommended to Council.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Absolute Majority

MOVED Cr Kimber, SECONDED Cr Prospero that Council:

- 1 in accordance with Section 7.3 of the Local Government Act 1995 APPOINTS Leanne Karamfiles of Deloitte Touché Tohmatsu as auditor to the City of Joondalup for the 2002/03 financial year, with the appointment to be in accordance with the terms and conditions outlined in the Local Government (Audit) Regulations 1996;**
- 2 AUTHORISES the affixation of the common seal to and endorses the signing of the contract documents.**

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (15/0)**

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Cr Baker left the Chamber, the time being 2047 hrs.

Cr Rowlands declared a non-financial interest which may affect his impartiality in Item CJ187-08/03 – Appointment of Auditor – 1 July 2003 to 30 June 2006 – Tender 040-02/03 as one of the tenderers is Cr Rowland's tax agent.

Cr Baker declared a financial interest which may affect his impartiality in Item CJ187-08/03 - Appointment of Auditor – 1 July 2003 to 30 June 2006 – Tender 040-02/03 as one of the tenderers is an existing legal client of his.

CJ187 - 08/03 APPOINTMENT OF AUDITOR - 1 JULY 2003 TO 30 JUNE 2006 - TENDER 040-02/03 – [43831]

PURPOSE

This report provides details of tenders received from registered company auditors or approved auditors for the supply of Audit Services to the City for the period 1 July 2003 to 30 June 2006.

EXECUTIVE SUMMARY

The current appointment of Council's external auditors – Mr Graham McHarrie and Mr Peter Messer from Chartered Accountants Deloitte Touché Tohmatsu expires on completion of the 30 June 2003 financial accounts.

In accordance with the provisions of the Local Government Act 1995 (Part 7) and the Local Government (Functions & General) Regulations 1996, tenders were called for the provision of audit services for the City for the financial period 1 July 2003 to 30 June 2006.

Five tenders were received from audit partners with the following Chartered Accounting firms:

- Stanton and Partners
- Deloitte Touché Tohmatsu
- Grant Thornton
- Haines Norton
- Joondalup Business Services

The assessment and evaluation of the audit tenders was undertaken by an evaluation panel using a multi-criterion assessment system.

Following the evaluation and assessment of the tenders it is recommended that the City appoints Mr Graham McHarrie and Mr Peter McIver of Chartered Accountants Deloitte Touché Tohmatsu as the City of Joondalup's external auditors for the financial period 1 July 2003 to 30 June 2006.

BACKGROUND

Pursuant to section 7 of the Local Government Act 1995 and the Local Government (Audit Regulations) 1996 the appointment of an auditor to undertake the audit of a Local Government requires that appointees be a registered company auditor or an auditor approved by the Minister under section 7.5 of the Local Government Act 1995.

Section 7.3(1) of the Local Government Act 1995 requires the auditor to be appointed by an absolute majority for a term of not more than five financial years.

The auditor is to examine the annual financial accounts submitted for audit by 30 September of each year, and by no later than 31 December next following the financial year to which the accounts and report relate, prepare a report thereon and forward a copy of that report to:

- the Mayor;
- the Chief Executive Officer; and
- The Minister for Local Government

The auditor's report forms an integral part of the Annual Report to the electors.

DETAILS

Tender No 040-02/03 for the supply of external audit services to the City for the triennium 1 July 2003 to 30 June 2006 closed at 3.00pm on Tuesday 27 May 2003. Five tenders were received as follows:

Tenderer	Locality	Tender Price (ex GST)			
		2003/04	2004/05	2005/06	Total
Joondalup Business Services	Joondalup	\$23,100	\$23,613	\$24,245	\$70,958
Haines Norton	Osborne Park	\$27,000	\$27,800	\$28,600	\$83,400
Stanton & Partners	West Perth	\$26,000	\$28,000	\$30,000	\$84,000
Deloitte Touché Tohmatsu	Perth	\$28,000	\$29,500	\$31,000	\$88,500
Grant Thornton	Perth	\$33,500	\$33,500	\$33,500	\$100,500

Under the City's Contract Management Framework, the tenders were assessed using a weighted multi-criterion assessment system based on the following selection criteria, as specified in the Tender Document:

- Tenderer's Resources (example of specialised Auditors to undertake this audit service as required under Part 7 of the Local Government Act, support services available, resumes of Auditors available and to be dedicated for the proposed Audit Services)
- Tenderer's previous experience in carrying out similar works
- Methodology to be used
- Audit Plan submitted
- Lump sum price

While Deloitte Touché Tohmatsu did not provide the cheapest tender, they clearly ranked ahead of the other tenderers on the qualitative criteria, which gave them the number one ranking overall. Apart from the tenders submitted by Grant Thornton and Stanton Partners, the other tenderers did not include a cost for grant acquittal audits in their quoted prices (this was not a requirement of the tender and is not included in the above prices). However, when this consideration was factored into the price, Deloitte's were still ranked ahead of all other tenderers.

Policy 2.4.6. Purchasing Goods and Services

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process; one submission was received from a local business, i.e. Joondalup Business Services.

Statutory Provision:

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulation 1996*. Section 7.3(1) of the Local Government Act 1995 requires the auditor to be appointed by an absolute majority which is the reason for this tender being referred to Council for approval.

COMMENT/FUNDING

The audit of the City of Joondalup will be carried out in accordance with the requirements of the Local Government Act 1995 and the Local Government (Audit) Regulations 1996 in the provision of an effective financial and compliance audit of the City.

Interim audit procedures will be conducted during the financial year with the final audit timed to ensure internal and external deadlines are met, particularly regarding the conduct of the Annual General Meeting of Electors.

Mr McHarrie is an audit partner in the Perth office of Deloitte Touché Tohmatsu. Both he and Mr McIver are registered company auditors and each has many years of auditing experience.

The hourly rates and number of hours quoted for the Deloitte "audit team" indicates that 250 team hours has been estimated for the interim and annual audits. This appears to be in the mid range of tenderers and provides value for money given Mr McHarrie's team's knowledge of the City's operations and systems.

Mr McHarrie's audit approach will focus on:

- Audit planning and risk identification
- Testing and audit response to risks
- Resolution of issues and reporting

Deloitte Touché Tohmatsu currently undertakes audits for the following local governments in addition to the City of Joondalup:

City of Belmont
City of Stirling
City of Subiaco
City of Swan
City of Wanneroo
Eastern Metropolitan Regional Council
Mindarie Regional Council

In the past Mr McHarrie has adopted the practice of meeting with the Chief Executive Officer at the conclusion of his audit at which time the results of the audit and the content of his Management Report are discussed. Since the establishment of the Audit Committee, Mr McHarrie has offered his services to explain the role and responsibilities of both external and internal audit.

Deloitte's tendered prices are quoted on the basis that all records including completed financial statements, prepared in statutory format and supporting trial balances and recommendations are completed and available at the time of audit.

It should be noted that the City is not compelled to use Deloitte for grant acquittal audits and may choose to use another auditor should this prove more cost effective.

Deloitte Touché Tohmatsu demonstrated that they have the ability to provide best value for money based on the selection criteria and outcome of the tender evaluation.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Absolute Majority

RECOMMENDATION as submitted to Council on 29 July 2003

That Council BY ABSOLUTE MAJORITY in accordance with the provisions of section 7.3 of the Local Government Act 1995 appoints Mr Graham McHarrie and Mr Peter McIver of Deloitte Touché Tohmatsu as auditors to the City of Joondalup for the triennium 1 July 2003 to 30 June 2006 at a fee of \$28,000 for 2003/2004, \$29,500 for 2004/2005 and \$31,000 for 2005/2006, plus GST. Such appointments to be under the terms and conditions outlined in the Local Government (Audit) Regulations 1996.

ADDITIONAL INFORMATION

At its meeting held on 29 July 2003 (Item CJ164 - 07/03 refers) Council resolved:

“that consideration of appointment of auditors to the City of Joondalup for the triennium 1 July 2003 to 30 June 2006 be DEFERRED until the next meeting of Council scheduled to be held on 19 August 2003.”

COMMENT

Tenders for the supply of audit services were invited through statewide public advertising on Saturday 10 May and closed on Tuesday 27 May. 5 submissions were received and all were deemed complying.

A detailed report was prepared and presented to the Council in time for the Council briefing session of Tuesday 22 July 2003. Following the Council briefing session, further clarifications were requested by certain Councillors relating to the selection process and specifically to the status of the Joondalup Business Services tender submission.

As a result of the requested clarification, a legal opinion obtained from the City's solicitors on the power of Council in relation to a recommendation from the administration to accept a tender, has been summarised below.

SUMMARY OF ADVICE

Factors to take into account

Council's decision on which tender to accept must be made in accordance with the specific requirements of the Local Government (Functions and General) Regulations 1996 and the invitation to tender.

Under regulation 18(4) of the Local Government (Functions and General) Regulations, Council can only accept a tender which it thinks will be the 'most advantageous' to the City to accept. However, the Council could not, when determining this issue, take any factor into account, only those factors stated in the selection criteria.

Under regulation 14(2a) of the *Local Government (Functions and General) Regulations*, a local government must, **before tenders are publicly invited**, determine in writing the criteria (including any weightings) for deciding which tender should be accepted.

Under regulation 18(4) of the *Local Government (Functions and General) Regulations* a local government must decide which tender is most advantageous to it to accept based on the evaluation undertaken against each of the selection criteria.

Council in determining which tender to accept, could not take into account a factor that was not included in the written criteria determined under regulation 14(2a). Additionally, after a tender has been publicly invited, Council could not amend the criteria for deciding which tender should be accepted.

With regard to the Invitation to Tender (No. 040-02/03) for the Supply of Audit Services, the criteria for deciding which tender should be accepted is clearly set out in clause 2.11 – 'Selection criteria of tenders'. Therefore, the decision on which tender would be the most advantageous for the City to accept would need to be determined in light of the criteria set out in this clause being:

Quantitative Criteria

Lump Sum Price (demonstrated by the price break-up) and other information provided under the Lump Sum Schedule.

Qualitative Criteria

- i) Tenderer's Resources (example of specialised Auditors to undertake this audit service as required under Part 7 of the Local Government Act, support services available, resumes of Auditors available and to be dedicated for the proposed Audit Services).*
- ii) Tenderer's previous experience in carrying out similar works (References may be checked).*
- iii) Methodology to be used.*
- iv) Audit Plan submitted.*

Further, clause 2.10 – 'Evaluation process' of the Invitation to Tender states that:

The tender assessment will be undertaken by an evaluation panel in accordance with AS 4121 –1994 'code of ethics and procedures for the selection of consultants' and AS 4120 –1994 'Code of tendering'.

and

Submissions will be evaluated using the information provided against the [selection criteria] (outlined above) to determine which tender submission provides the City with best value for money.

The Council would be bound to form its decision on which tender to accept or reject based only on the written evaluation prepared by the evaluation panel. The evaluation panel may only prepare its written evaluation with regard to those factors outlined in clause 2.11 of the Invitation to Tender.

Reasonable decision

Any decision by Council with regard to a tender must be considered a reasonable decision and must be made in light of the selection criteria or it could be challenged and ruled invalid. (*Associated Provincial Picture Houses Limited v Wednesbury Corporation (1948) 1 KB 232*, and *Attorney-General (NSW) v Quin (1990) 1670 CLR 1*)

If this were to occur, any contract subsequently entered into by the City based on the Council's decision would also be invalid. The party who had entered into a contract with the City (the 'contractor') could commence legal proceedings against the City for the losses it will suffer as a result of that contract being invalidated.

FUTURE ACTIONS

Should Council wish to have other factors considered in the selection process for public tenders, it is important to have these factors stated in the invitation to tender as part of the selection criteria.

CONCLUSION

Council may only consider a tender and make a decision on a tender in accordance with what was stated in the invitation to tender documents and including:

- The selection criteria;
- The evaluation process.

Any decision Council makes in this regard must be considered a reasonable decision in light of what Council requested in the invitation to tender. Council does not have the ability to assess the tenders subsequent to an assessment completed by the administration, as this is not as detailed in the invitation to tender.

Should Council subsequently resolve to award a tender that may not be considered a reasonable decision, i.e. a decision based on the information requested in the invitation to tender and assessed in accordance with the process outlined in the invitation to tender, the Council may be challenged on this resolution. Should such a challenge be won, any contract the Council has subsequently entered into would be ruled invalid and Council would be subject to potential legal proceedings for losses incurred by that company.

Should the Council choose to award the contract for the supply of Audit Services to a tenderer based solely on the criteria of that organisation being a local supplier then this will expose the Council to legal proceedings by other tendering organisations on the basis that this decision may be considered unreasonable in light of the complete selection criteria.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Absolute Majority

MOVED Cr Kenworthy, SECONDED Cr Mackintosh that Council in accordance with the provisions of section 7.3 of the Local Government Act 1995 APPOINTS Mr Graham McHarrie and Mr Peter McIver of Deloitte Touché Tohmatsu as auditors to the City of Joondalup for the triennium 1 July 2003 to 30 June 2006 at a fee of \$28,000 for 2003/2004, \$29,500 for 2004/2005 and \$31,000 for 2005/2006, plus GST. Such appointments to be under the terms and conditions outlined in the Local Government (Audit) Regulations 1996.

Discussion ensued.

During discussion Cr Mackintosh left the Chamber at 2050 hrs and returned at 2051 hrs.

MOVED Cr Prospero, SECONDED Cr Brewer that Motion BE NOW PUT.**The Procedural Motion was Put and****CARRIED (11/3)**

In favour of the Procedural Motion: Mayor Carlos, Crs Brewer, Gollant, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Prospero, Rowlands and Walker **Against the Procedural Motion:** Crs Caiacob, Hart and O'Brien

The Motion as Moved by Cr Kenworthy, Seconded by Cr Mackintosh was Put and**CARRIED BY AN
ABSOLUTE MAJORITY (9/5)**

In favour of the Motion: Crs Brewer, Gollant, Kenworthy, Kimber, Mackintosh, Nixon, Prospero, Rowlands and Walker **Against the Motion:** Mayor Carlos, Crs Caiacob, Hart, Hollywood and O'Brien

**CJ188 - 08/03 REIMBURSEMENT OF ELECTED MEMBERS
ALLOWANCES AND EXPENSES – MAY TO JULY
2003 – [27122]****WARD All****PURPOSE**

To provide an account of allowances and expenses incurred by and paid to each Councillor for May 2003 to July 2003.

EXECUTIVE SUMMARY

The reimbursement of elected members expenses is subject to Council's policy and a signed claim form declaring that the information provided in support of the claim is true and correct.

The underlying principle that applies to payment of various allowances and reimbursement of expenses incurred whilst performing duties as an elected member is:

“to enable any eligible member of the community to be elected and carry out the duties and responsibilities of their elected office, without being financially disadvantaged for doing so.”

BACKGROUND

Following an extensive review of what allowances and reimbursement of expenses are permissible under the Local Government Act 1995 (the Act) and Regulations under the Act, Council at its meeting held on 18 December 2001, adopted a comprehensive policy known as “Policy for Payment of Fees, Allowances and Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors”.

This policy has applied from the first Saturday in May 2002 to coincide with elections and future new Councils. The policy sets out the amount of allowances that can be paid and reimbursement of expenses that can be claimed. It should be noted that the Act and Regulations under the Act do not limit the amount that can be reimbursed for travelling and child minding expenses.

DETAILS

At the ordinary Council meeting held on 11 March 2003, the following resolution was passed:

- “1 *The Chief Executive Officer cause to be published in all future Agendas of Ordinary Council meetings, a detailed report concerning expenses and allowances incurred by/paid to each Councillor and paid for/reimbursed by the City of Joondalup including, but not limited to, the following expenses and allowances:*
 - 1.1 *Expenses incurred by each Councillor on Conference and Training*
 - 1.2 *Expenses ostensibly incurred by each Councillor on Travel and Childcare*
 - 1.3 *Allowances paid to each Councillor by way of the communication allowance and the “sitting” or “meeting” attendance fee; and*
 - 1.4 *Other expenses incurred by each Councillor*
- 2 *The first such report also include a summary of all such expenses and allowances incurred by/paid to each Councillor since the date of their election to Council; and*
- 3 *At the foot of each report there be a recommendation to note each such report there be a recommendation to note each such report”.*

The first report was presented to Council on 1 April 2003. This report covers the period since the Policy for Payment of Fees, Allowances and Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors commenced for the new Council that was elected on the 3 May 2003. Attachment 1 to this Report shows all allowances and expenses reimbursed to the Councillors May 2003 to July 2003.

ATTACHMENTS

Attachment 1 – Expenses for the period May – July 2003.

VOTING REQUIREMENTS

Simple Majority

Cr Baker entered the Chamber, the time being 2056 hrs.

MOVED Cr Walker, SECONDED Cr Hart that Council NOTES the information in relation to reimbursements of Elected Members' allowances and expenses May to July 2003 as contained in Attachment 1 to Report CJ188-08/03.

The Motion was Put and

CARRIED UNANIMOUSLY (15/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Cr Kimber left the Chamber, the time being 2057 hrs.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf120803.pdf](#)

**CJ189 - 08/03 LEASE TO MULLALOO COMMUNITY
KINDERGARTEN INCORPORATED AT LOT 21, (27)
KOORANA ROAD, MULLALOO – [08515]**

WARD - Whitfords

PURPOSE

To seek Council's approval for a new lease for Lot 21 (27) Koorana Road, Mullaloo to the existing lessee Mullaloo Community Kindergarten Incorporated.

EXECUTIVE SUMMARY

The lease of the premises at Lot 21 (27) Koorana Road, Mullaloo between the City and Mullaloo Pre-School Committee expired on 31 December 2002. In the interim, the City has been negotiating with the lessee, in addition to examining its management generally of pre-school and kindergarten leases. Presently, Mullaloo Community Kindergarten continues to occupy the premises under the conditions of the expired lease.

In view of the continued requirement for a kindergarten at this location, it is recommended that Council approves a new lease to the Mullaloo Community Kindergarten, now identified as Mullaloo Community Kindergarten Incorporated.

BACKGROUND

The Mullaloo Community Kindergarten Committee has held a lease on these premises since 1 January 1998, for the purposes of conducting a kindergarten. The lease expired on 31 December 2002. The lease has been operating on a monthly basis under the conditions of the previous lease.

The lessee of the expired lease was the Mullaloo Pre-School Committee, however, there was no evidence of incorporation provided. Legal advice received by the City indicated that it would be unusual and unwise for the City to lease premises to a group of individuals rather than an incorporated association. A certificate of incorporation was therefore requested from the Mullaloo Community Kindergarten. The Certificate of Incorporation states that Mullaloo Pre-School Centre was incorporated on 20 October 1980 and on 20 February 2002, under the Associations Incorporation Act 1987, changed its name to Mullaloo Community Kindergarten Incorporated.

Suburb/Location: Mullaloo
Applicant: Mullaloo Community Kindergarten Incorporated
Owner: City of Joondalup
Zoning: **DPS:** 2 Civic & Cultural
MRS: Urban
Strategic Plan: Aligned to objectives 1.1 and 1.3 of the strategic plan as follows:
 1.1 To develop, provide and promote a diverse range of lifelong learning objectives.
 1.3 To continue to provide services that meets the changing needs of a growing community.

DETAILS

The legal description of the property is Lot 21 on Diagram 63642 Volume 1642 Folio 453 with a land area comprising 0.4916 hectares. The property was acquired in September 1983 together with the improvement of a kindergarten, the building of which was funded by the former City of Wanneroo with State Government assistance. Community based pre-school centre committees have leased the premises since acquisition.

Over a number of years, the former City of Wanneroo purpose built early childhood venues to meet the needs of local people in line with regional development, and these have been leased by community based pre-school centre committees, as is the case with the subject premises.

It is requested that the new lease be granted in line with the City's standard community lease for a five-year term. The essential terms of the agreement are set out as follows:

Lessee	Mullaloo Community Kindergarten Incorporated
Lessor	City of Joondalup
Land	Lot 21 on Diagram 63642 and being the whole of the land in Certificate of title Volume 1642 Folio 453
Premises	The land and the building and all improvements
Lessor's Interest	Owner in fee simple
Term	5 years
Commencement Date	1 January 2003
Expiry Date	31 December 2007
Annual rent payable on the commencement date	Peppercorn rental of \$1.00
Permitted purpose	Community Kindergarten

Special conditions:	<p><u>Use by community associations and others:</u></p> <p>The lessee shall permit community, charitable and recreational associations and bodies and such other associations, bodies or persons as the lessor may approve, to use the premises at all times when the premises are not required by the lessee, and not to charge any fee for such use in excess of the fees fixed by the lessor from time to time.</p> <p>The lessee shall take bookings by all associations, bodies and persons permitted to use the premises and shall enter all such bookings in a register kept for the purpose together with date, name and fees charged details. This register must be kept for the lessor to view. The use of the premises is to be in accordance with City of Joondalup policy and procedure.</p>
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The lessee will be responsible for maintenance, structural repairs and outgoings (including insurances for contents and other operational matters) as for the City's standard community lease. The City will complete a pre-lease inspection and provide a report to the lessee in order that a benchmark is set for the management of the property throughout the term of the lease. The City is responsible for any costs associated with proper maintenance of the building structure and for the provision of building insurance.

Funding for the kindergarten is limited to term fees charged, fund raising and voluntary contributions by parents and the clause in the lease "Use by Community Associations and Others" allows the kindergarten to augment this. This clause also provides flexibility in the use of the facility for the good of the overall community.

Statutory Provision:

The lessee and the purpose independently qualify this lease as an exempt disposition under Regulation 30(2)(b)(i) of the *Local Government (Functions and General) Regulations 1996*. Consequently, there is no need to comply with the disposal conditions as provided by Section 3.58 of the Local Government Act, 1995.

Financial Implications:

The tenant is responsible for all operational costs associated with the lease.

COMMENT

In view of the continued requirement for the kindergarten and the agreement by the lessee to lease the facility in line with the City's standard community lease, it is recommended that the application for a new lease by Mullaloo Community Kindergarten Incorporated be approved.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Caiacob that Council APPROVES a new lease for the kindergarten at Lot 21 (27) Koorana Road Mullaloo to Mullaloo Community Kindergarten Incorporated, subject to:

- 1 the term of the lease being for five years commencing 1 January 2003;**
- 2 peppercorn rental of \$1.00 per annum;**
- 3 the premises to be used for the purpose of a kindergarten and ‘use by community associations and others’ as per Item 9 in the schedule of the lease;**
- 4 maintenance, repairs, outgoings and all legal costs associated with the lease being met by Mullaloo Community Kindergarten Incorporated;**
- 5 signing and affixing of the Common Seal to the lease between the City of Joondalup and the Mullaloo Community Kindergarten Incorporated.**

The Motion was Put and

CARRIED (14/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Mackintosh, Nixon, O’Brien, Prospero, Rowlands and Walker

CJ190 - 08/03 MODIFICATIONS TO KINROSS NEIGHBOURHOOD CENTRE STRUCTURE PLAN – PORTION OF LOT 9007 CORNER SELKIRK AND CONNOLLY DRIVE, KINROSS – [20514]

WARD - North Coastal

PURPOSE

The Kinross Neighbourhood Centre Structure Plan (Attachment 1) is brought before Council to consider minor modifications required by the Western Australian Planning Commission (WAPC) prior to their certification of the document in accordance with Part 9 of the City’s District Planning Scheme No 2 (DPS2).

EXECUTIVE SUMMARY

The Structure Plan has been prepared to determine the overall detailed land use and form of development within the Centre (Attachment 1). The subject land is divided into three land use areas being, Residential, Civic and Cultural and Commercial. Specific objectives and criteria are proposed to guide the rationale and framework for future subdivision and development of the land.

The Structure Plan was considered by Council at its meeting on 12 February 2002 where it was resolved to adopt it for the purposes of advertising for public comment.

The Structure Plan, together with submissions received during the advertising period, was considered by Council at its meeting on 23 April 2002 where it was resolved to grant final approval to the document with modification and to submit it to the WAPC for adoption and certification.

The WAPC has advised that it notes the submissions made on the Structure Plan, dismisses the submissions that raise objection to the Structure Plan and endorses the Structure Plan subject to bus stops and main street areas being annotated on the development plan of the Structure Plan.

Clause 9.4.1 states that advertising of Structure Plans subject to minor modifications may be waived at the discretion of the Council. Given the WAPC required modifications are considered to be minor in nature, Council's discretion to waive advertising of the WAPC requested modifications is therefore considered appropriate.

It is recommended that Council resolves that the modifications to the Kinross Neighbourhood Centre Structure Plan are satisfactory and advises the WAPC accordingly.

BACKGROUND

Suburb/Location: Kinross
Applicant: Taylor Burrell Barnett on behalf of Peet & Co
Owner: Burns Beach Management Pty Ltd
Zoning: **DPS:** Residential (R40), Business (R20), Commercial (R20), Civic and Cultural (R20)
MRS: Urban

Strategic Plan: Strategy 2.1 – Rejuvenate our suburbs.
Strategy 2.7 – Encourage the provision of a range of innovative and quality facilities, services and recreational activities, which achieve the physical, social, cultural and intellectual well-being of the community, both locally and regionally.

Council at its meeting on 12 February 2002 (CJ024 – 02/02 refers) resolved:

That Council:

- 1. Pursuant to Clause 9.4 of the City of Joondalup District Planning Scheme No 2, ADOPTS the draft Kinross Neighbourhood Centre Structure Plan and make it available for public comment for a period of twenty eight (28) days;*
- 2. FORWARDS a copy of the Kinross Neighbourhood Centre Structure Plan to the Western Australian Planning Commission for comment.*

Council at its meeting on 23 April 2002 (CJ091 – 04/02 refers) resolved:

That Council:

1 *Pursuant to Clause 9.6 of the City of Joondalup District Planning Scheme No 2, RESOLVES that the Kinross Neighbourhood Centre Structure Plan is satisfactory subject to the following modifications and submits it to the Western Australian Planning Commission for adoption and certification:*

(a) *inserting the following new provision 6.1.2 xx as follows:*

“Bus bays shall be provided on Selkirk Drive in the vicinity of the Centre and existing bus stops on Selkirk Drive shall be relocated where necessary in accordance with the Department of Transport’s requirements and to the City’s satisfaction.”

(b) *Provision 6.1.2 xix being modified to read as follows:*

“On-street parking shall be provided along Selkirk Drive to the satisfaction of the City and may be credited to the Commercial Centre’s parking requirement.”

2 *Subject to certification of the Structure Plan by the Western Australian Planning Commission, ADOPTS the Kinross Neighbourhood Centre Structure Plan as an Agreed Structure Plan and authorises the affixation of the Common Seal to, and the signing of, the Structure Plan documents.*

DETAILS

The WAPC via correspondence dated 8 February 2003 advised the City that they require two modifications to the Structure Plan. The required modifications relate to annotations being placed upon the development plan to include bus stops and areas where ‘main street’ form of development is to be provided.

Clause 9.4.1 (a) states that advertising of Structure Plans subject to minor modifications may be waived at the discretion of the Council. Given the WAPC required modifications are considered to be minor in nature, Council’s discretion to waive advertising of the WAPC requested modifications is therefore considered appropriate.

Statutory Provision:

Part 9 of the City’s DPS2 relates to the preparation and adoption of Structure Plans. Clause 9.6.3 (c) states:

If the Commission requires modifications to the Structure Plan the proponent shall make the modifications in consultation with the Council and resubmit the Structure Plan for consideration under clause 9.4.

Strategic Implications:

3.1.2 - Facilitate the safe design, construction and approval of all buildings and facilities within the City of Joondalup;

3.4.2 - Align use of land and modes of transport.

3.5.2 - Assist the facilitation of local employment opportunities.

The redesign and relocation of the Kinross Neighbourhood Centre will increase its exposure and ensure that it reflects current urban design principles, particularly main street forms of urban design, thereby creating economic and lifestyle benefits.

The proposed modifications will facilitate the certification and subsequent finalisation of the Structure Plan.

COMMENT

The WAPC required modifications are considered minor and shall facilitate increased clarity for all users of the document.

The proposed modifications have already been included within the Structure Plan document as written text requirements. The WAPC has sought inclusion of the modifications on the accompanying Development Plan in order to increase transparency and assist in the usability of the document.

ATTACHMENTS

Attachment 1 – Structure Plan

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Caiacob, SECONDED Cr Brewer that Council:

- 1 EXERCISES its discretion under Clause 9.4.1 (a) of the City's District Planning Scheme No 2 to waive advertising of the modifications;**
- 2 pursuant to Clause 9.6 of the City of Joondalup District Planning Scheme No 2, RESOLVES that the Kinross Neighbourhood Centre Structure Plan as per Attachment 1 is satisfactory and submits it to the Western Australian Planning Commission for adoption and certification;**
- 3 subject to certification of the modified Structure Plan by the Western Australian Planning Commission, ADOPTS the Kinross Neighbourhood Centre Structure Plan as an Agreed Structure Plan and authorises the affixation of the Common Seal to, and the signing of, the Structure Plan documents.**

The Motion was Put and

CARRIED (14/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf120803.pdf](#)

Cr Walker declared a non-financial interest which may affect her impartiality in Item CJ191-08/03 – Educational Establishment (Hospitality Training Centre – West Coast College of TAFE) Lot 500 (35) Kendrew Crescent, Joondalup as she is a student at Joondalup College of TAFE.

CJ191 - 08/03 EDUCATIONAL ESTABLISHMENT (HOSPITALITY TRAINING CENTRE – WEST COAST COLLEGE OF TAFE) LOT 500 (35) KENDREW CRESCENT, JOONDALUP – [01875]

WARD - Lakeside

PURPOSE

The proposal is referred to Council, as the subject site is highly prominent having an important location within the Campus District of the Joondalup City Centre.

EXECUTIVE SUMMARY

An application has been received for the construction of a Hospitality Training Centre on the West Coast College of TAFE site in Joondalup. The proposal includes an educational establishment, the operation of a café, restaurant, delicatessen (take away food store) and the occasional usage of a function hall – these uses are affiliated with the TAFE course in Hospitality.

The proposal is part of the West Coast College of TAFE program to relocate the hospitality training facility from its current location in Carine to Joondalup.

The proposed complex will be located between the future Joondalup Regional Performing Arts Centre and the existing TAFE campus, with the proposed building having an outlook over the existing lake and boardwalk. Main vehicle access will be obtained from the recently approved access/main entry off Grand Boulevard (yet to be constructed).

The development proposal has been submitted to the City in order to provide a recommendation to the Western Australian Planning Commission, which is the determining authority for this proposal.

The proposal expands the existing TAFE campus, which is in keeping with the Joondalup City Centre Development Plan and Manual (Campus District). The proposal is therefore recommended for approval.

BACKGROUND

Suburb/Location: Lot 500 (35) Kendrew Crescent, Joondalup
Applicant: Jones Coulter Young Architects on behalf of
the Department of Education and Training
Owner: Landcorp
Zoning: **DPS:** Centre
MRS: Central City Area

The site is bounded by Lakeside Drive, Kendrew Crescent, Grand Boulevard to the west and Central Park. The site has a total lot area of 10.4445ha. The proposed Hospitality Training Centre will be constructed on a portion of the site, which currently comprises of bushland and abuts the existing boardwalk on the southern edge of the lake. The existing TAFE complex is located to the east of the proposed Hospitality Training Centre.

A location plan is shown at Attachment 1 to this Report and the development plan is shown at Attachment 2 to this Report.

Strategic Plan:

The Hospitality Training Centre will provide the City with another key focal point within the CBD and Learning Precinct. The Strategic Plan 2003-2008 outlines several strategies that support the development of the facility, these include:

- 1.1.1 Continue the development of the City of Joondalup as a Learning City – plan for student growth.
- 1.1.2 Continue the development of leaning precincts and relationships with local stakeholders and service providers.
- 1.1.3 Support whole-of-life learning and creation of knowledge opportunities.
- 1.2.1 Continue to enhance and create new cultural activities and events.
- 1.2.2 Create cultural facilities.
- 3.1.2 Facilitate the safe design, construction and approval of all buildings and facilities within the City of Joondalup.
- 3.1.3 Create and maintain parklands that incorporate nature and cultural activities accessible to residents and visitors.
- 3.2.1 Create and promote cultural tourist attractions.
- 3.5.1 Develop partnerships with stakeholders to foster business development opportunities.
- 3.5.2 Assist the facilitation of local employment opportunities.

Furthermore, the proposal abuts the future Joondalup Regional Performing Arts Centre.

DETAILS

Proposal

The proposal includes the construction of a single storey Hospitality Training Centre of approximately 2000m². The centre will include the following elements:

- Teaching and staffing facilities, including staff office area, skills kitchens, theory rooms and stores;
- A bistro/restaurant with an alfresco area which has an outlook over the lake;
- A boutique wine bar;
- A function/banqueting area, which includes the capacity for an outdoor/marquee setting;
- Citrus grove;
- A delicatessen/mixed food outlet, which will operate as a takeaway outlet for the sale of produce prepared within the kitchen. The delicatessen will also include a small external setting area with tables and chairs; and
- The construction of 20 parking bays, which include two disabled bays.

The centre is proposed to have the following student/staff numbers:

- Full time students – 163
- Apprentices – 144 attending one of Monday, Tuesday, Wednesday each week
- Part time students – 80 attending evenings, starting at 5pm
- Part time teachers – 5
- Full time teachers – 16
- Administration (support) – 1
- Stores (support) – 6
- Other staff – 1 x cleaner (kitchen)

It should be noted that the access arrangements for the TAFE site which include a new access point off Grand Boulevard were approved by the City on 30 December 2002 and are not included within this application.

Applicant's Justification

The applicant has provided the following information (summarised) in support of the proposed Hospitality Training Centre:

- The proposed Hospitality Training Centre on the Joondalup Campus of West Coast Collage of TAFE provides an opportunity for the Northern Metropolitan Region. The centre will be of significant benefit to the Hospitality and related industries in Western Australia;
- The new centre is being proposed to replace that at the Carine Campus of TAFE. There are a number of reasons behind the proposed RL 50 for the complex. These include the following:
 - (a) the level is consistent with the level taken approximately half way across the lot;
 - (b) the intention is to remove earth from the southern side of the site and place it on the northern half of the site to achieve the required level;

- (c) operationally, a consistent level from loading dock and stores through to all kitchens and outlets has been seen as a high priority; and
 - (d) the elevated position of the café, restaurant and function space also assists with both views over the lake and with controlling licensed areas.
- The proposal will be designed and checked in accordance with the provision of the Building Codes of Australia (BCA). This will be completed at building licence stage;
 - The proposed development will not result in the removal of any existing trees along the boardwalk, as these trees are not located within the subject land.

Statutory Provision:

The subject land is located within the “Centre Zone” of DPS2. DPS2 itself does not contain specific land use or development control provisions for the Centre zone. Instead, the Scheme requires development to be in accordance with an approved Structure Plan. In this case, the relevant approved Structure Plan is the Joondalup City Centre Development Plan and Manual (JCCDPM). Comment in relation to the specific requirements of the JCCDPM is outlined below.

Consultation:

No advertising of the proposal is considered necessary as no discretionary approval is being sought. It is not considered that the proposed development will have any negative impact on adjoining or surrounding properties, as the proposal does not have any road frontage and is consistent with the existing TAFE College.

COMMENT

Joondalup City Centre Development Plan and Manual (JCCDPM)

The subject land is located within the “Campus” district of the JCCDPM (hereafter referred to as the “plan”). The plan broadly outlines the relevant built form and land use requirements for the land. In relation to the TAFE site, the plan requires development on Grand Boulevard to be guided by the provisions outlined for the “Central Business” district, when assessing frontage to Grand Boulevard. Given that the proposal does not have road frontage, the requirements of the plan in relation streetscape and frontage to Grand Boulevard are not relevant in this case.

An aspect outlined within the JCCDPM is that buildings provide active frontages to provide opportunity for activity and interaction for pedestrians. In the case of this proposal, the northern edge of the building fronts onto the boardwalk for Central Park. It is considered that the proposal should address the boardwalk adequately to provide appropriate interaction with pedestrians.

The plan for this part of the Campus District does not provide any guidance or standards in relation to future development, other than that preferred development should be related to educational uses.

Site works – proposed levels

The subject site slopes downward from the existing parking area abutting TAFE Building Block B (which is at RL50.00) towards the boardwalk (which is at RL47.48). The proposal incorporates substantial site works that involves filling the site to maintain RL50.00 for the entire centre – in accordance with the existing levels of Block B. This will result in the centre being between 2 and 2.5 metres above the boardwalk level. The deck is setback 3.5 metres from the boardwalk (1.5 metres to the lot boundary) and 1.2 metres to the Parks and Reserves land (Central Park).

Concerns are raised in relation to the potential impact the height difference will have on the pedestrian environment along the boardwalk, as the proposed decking area of the centre will be above pedestrian eye level.

The applicant has indicated that the deck area will be treated sensitively, with the building being cantilevered over natural grasses so the pedestrians are not confronted by retaining wall (the retaining wall will be setback). The effect is to create a light pavilion structure in a natural grassland setting. The proposed level is to provide some privacy for the outdoor eating area and provide views to the lake.

It is considered that the differences in levels will have a negative impact on the pedestrian environment and will not provide appropriate interaction between the proposed centre and the boardwalk. This is contrary to the intent of the JCCDPM, which requires interaction between land uses and pedestrian corridors.

The justification of obtaining views over the lake, amongst other reasons, is not considered acceptable. It is recommended that the level of the Hospitality Training Centre be reduced to RL49.00. The reduced level would result in a height difference of between 1 metre and 1.5 metres, thus providing improved pedestrian interaction with the centre and enable the centre to obtain an outlook over the lake.

Car parking

The application proposes car parking areas to accommodate approximately 20 bays abutting the proposed centre. The Department of Education and Training is presently commissioning Jones Coulter Young to review the campus Masterplan (inclusive of parking). This will result in a strategy for campus parking and a future direction for the management of car parking within the Education Precinct. It is unknown when the results of the parking study and the implementation of any required works will be completed.

The JCCDPM does not indicate the provision for parking. As a guide, the City's District Planning Scheme No.2 outlines the following provision for parking for the various uses:

District Planning Scheme No 2 (DPS2) parking Calculation

Use	DPS Parking Provision	Area/No of Students	Required Bays
Tertiary College	1 bay per 3 students	163 Full Time	54
Café/Bar	1 bay per 5m ² or 1 bay per 4 guests (which ever is greater)	60 people (based on the information provided within the application)	15
Restaurant	As Above	80m ²	16
Delicatessen	7 bays per 100m ²	25m ²	2
Total			87 bays
Function Centre	1 bay per 4 guests	200	50

It should be noted that the above parking calculations do not take into account the 80 part time students and the 144 apprentices who will attend the centre. These figures may not impact greatly on the centre, as the part time students attend in the evenings and the apprentices attend once per week, either on a Monday, Tuesday or Wednesday.

A figure has been provided for the function centre, which has 4 theory rooms, which can be converted to a function centre to cater for large gatherings. It is assumed that the functions would not take place regularly and would take place during the evenings or weekends, therefore may not impact on the parking for the TAFE campus.

In relation to Scheme parking provisions, the proposed addition to the campus will require 87 bays. The application indicates the addition of only 20 parking bays.

It is noted that the TAFE campus does provide 332 bays, with a further 118 bays included as part of the approval issued by the City in December 2002. In September 2002, it was indicated that the Joondalup campus of TAFE had a student population of 1129. With the decommissioning of the Carine campus of TAFE and the construction of the new Hospitality Training Centre, the student population will exceed 2000. This will impact on the parking provision for the site and may result in the Joondalup campus being inadequately provided with car parking spaces.

Concerns are raised in relation to the potential for parking problems to emerge as a result of the various activities that will take place as part of the Hospitality Training Centre. The review of the Masterplan for the campus will be vital in determining the parking provision for the site and it is suggested that the review takes place and be implemented prior to the Hospitality Training Centre being occupied. This would clarify the parking situation for the Joondalup campus and make provisions to provide additional bays, if required.

Frontage to the proposed Joondalup Regional Performing Arts Centre

The site to the west of the proposed Hospitality Training Centre will comprise the future Joondalup Regional Performing Arts Centre. On the western elevation, the Hospitality Training Centre is proposed to have a blank façade and a setback of approximately 7 metres to the boundary. A nature strip is proposed within the setback area.

Ideally a blank façade is not considered to be appropriate, however the design of the Performing Arts Centre is unknown. In addition, it is considered that the proposed western elevation of the building will front the rear of the Performing Arts Centre, which will be designed to have frontage onto Grand Boulevard. It is envisaged that the rear of the Performing Arts Centre will comprise the loading area, which maybe designed to incorporate a portion of the 7 metre setback area to the Hospitality Training Centre.

Overall, the proposal will provide an important addition to the TAFE facilities and will provide a complementary activity to the proposed Performing Arts Centre.

Subject to the floor level of the site being reduced and the provision of car parking being reviewed, the development is supported.

ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Development Plans

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION:

That Council **RECOMMENDS** to the Western Australian Planning Commission that the application dated 26 June 2003 submitted by Jones Coulter Young Architects of behalf on the owner(s) – Joondalup TAFE, for a Hospitality Training Centre on Lot 500 (35) Kendrew Crescent, Joondalup, be **APPROVED**, subject to the following conditions:

- 1 the proposed level of the Hospitality Training Centre being reduced to RL 49.00 in order to improve the interface between the proposed use and the pedestrian corridor;
- 2 the completion of the Masterplan (car parking strategy) for the campus and the provision of additional parking bays to accommodate any car parking shortfall generated by the Hospitality Training Centre, if required as a result of the review, prior to the Centre being occupied;
- 3 the existing trees along the boardwalk being retained;
- 4 submission and implementation of a Refuse Management Plan for the Hospitality Training Centre to the satisfaction of the City;
- 5 the Hospitality Training Centre addressing disabled access to the satisfaction of the City;
- 6 the parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standards for Offstreet Car parking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building program;

- 7 all stormwater must be contained on-site to the satisfaction of the City;
- 8 submission of a Construction Management Plan detailing phasing of construction, access, storage of materials, protection of pedestrians, footpaths and other infrastructure;
- 9 bin areas shall consist of a concrete floor that grades evenly to an industrial floor waste that is connected to sewer and hose cock;
- 10 the lodging of detailed landscape plans, to the satisfaction of the City, for the development site prior to the commencement of works. For the purpose of this condition, a detailed landscaping plan shall be drawn to a scale of 1:100.

Footnotes:

- 1 The applicant is reminded of their obligation to comply with the requirements of the Environmental Protection Act in relation to dust control.
- 2 In relation to condition 4 and 5, plans and relevant documents are to be submitted to the City for assessment prior to the commencement of the development.
- 3 The proposal complying with the requirements of the Health (Food Hygiene) Regulations 1993;
- 4 Submission of plans and specification of all food areas for approval and classification prior to any works commencing

ADDITIONAL INFORMATION

At the briefing session held on 12 August, the proponents submitted additional information requiring assessment. The issue at hand relates to condition 1 of the recommendation for the training centre proposal.

Proposed condition 1 reads –

“The proposed level of the hospitality training centre being reduced to RL 49.00 in order to improve the interface between the proposed use and the pedestrian corridor.”

The rationale for the condition relates to the concerns held by the City over the level difference and proximity between a boardwalk area and a proposed al fresco deck that would be situated adjacent and above the walkway. If built as proposed, the assessment is that the impact will reduce the attractiveness of the walkway environment, as the al fresco diners will be substantially above and next to the walkway for approximately 30m of the length of the existing boardwalk.

The proponents have submitted a section purporting to show a method by which the interface would be landscaped. Having now checked this against the drawing submitted at the Briefing Session, it is found that the sketch is inaccurate and does not depict the area of the boardwalk and al fresco area that is of concern.

A copy of the architect's sketch, with the correct relationship and alignment of the boardwalk (in bold text) is attached – Appendix 3(a) refers.

The concern about excessive differences in the levels remains, and the recommendation above stands. There is however the option of rewording the condition to give flexibility for the RL of the bulk of the buildings, with only North-East building being reduced to RL49. If this is preferred, the recommended condition 1 could be adjusted to read as follows.

“The proposed level of the North-East wing of the hospitality training centre being reduced to RL 49.00 in order to improve the interface between the proposed use and the pedestrian corridor.”

MOVED Cr Prospero, SECONDED Cr Walker that Council RECOMMENDS to the Western Australian Planning Commission that the application dated 26 June 2003 submitted by Jones Coulter Young Architects of behalf on the owner(s) – Joondalup TAFE, for a Hospitality Training Centre on Lot 500 (35) Kendrew Crescent, Joondalup, be APPROVED, subject to the following conditions:

- 1 the proposed level of the North-East wing of the hospitality training centre being reduced to RL 49.00 in order to improve the interface between the proposed use and the pedestrian corridor;**
- 2 the completion of the Masterplan (car parking strategy) for the campus and the provision of additional parking bays to accommodate any car parking shortfall generated by the Hospitality Training Centre, if required as a result of the review, prior to the Centre being occupied;**
- 3 the existing trees along the boardwalk being retained;**
- 4 submission and implementation of a Refuse Management Plan for the Hospitality Training Centre to the satisfaction of the City;**
- 5 the Hospitality Training Centre addressing disabled access to the satisfaction of the City;**
- 6 the parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standards for Offstreet Car parking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building program;**
- 7 all stormwater must be contained on-site to the satisfaction of the City;**
- 8 submission of a Construction Management Plan detailing phasing of construction, access, storage of materials, protection of pedestrians, footpaths and other infrastructure;**

- 9 bin areas shall consist of a concrete floor that grades evenly to an industrial floor waste that is connected to sewer and hose cock;
- 10 the lodging of detailed landscape plans, to the satisfaction of the City, for the development site prior to the commencement of works. For the purpose of this condition, a detailed landscaping plan shall be drawn to a scale of 1:100.

Footnotes:

- 1 The applicant is reminded of their obligation to comply with the requirements of the Environmental Protection Act in relation to dust control.
- 5 In relation to condition 4 and 5, plans and relevant documents are to be submitted to the City for assessment prior to the commencement of the development.
- 6 The proposal complying with the requirements of the Health (Food Hygiene) Regulations 1993;
- 7 Submission of plans and specification of all food areas for approval and classification prior to any works commencing.

The Motion was Put and

CARRIED (14/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Appendices 3 and 3(a) refer

To access this attachment on electronic document, click here: [Attach3brf120803.pdf](#)
[Attach3amin190803.pdf](#)

Cr Kimber entered the Chamber, the time being 2058 hrs.

**CJ193 - 08/03 COMMUNITY FUNDING PROGRAM –
AMENDMENTS TO COMMUNITY FUNDING
POLICY AND GUIDELINES – [39290]**

WARD - All

PURPOSE

The purpose of this report is to recommend changes to the Community Funding Program Policy and Guidelines for 2003-2004.

EXECUTIVE SUMMARY

The City's Community Funding Program came into operation on 1 July 1999. The Program has been developed to provide financial assistance to not-for-profit organisations that operate within the City in support of a range of community development initiatives consistent with the City's strategic objectives.

The Community Funding Program consists of a policy and funding guidelines for each funding category of the policy.

The Program has been successfully implemented for four financial years. As part of the annual review of the Community Funding Program, this report recommends improvements and enhancements to the Policy and Guidelines, which provide greater alignment with the City's Strategic Plan 2003-2008.

The Policy changes recommended are:

- That the Environmental and Sustainable Development Fund and the Economic Development Fund be amalgamated and renamed as the Sustainable Development Fund to better reflect the City's Strategic Plan and the Environmental, Social and Economic Sustainability Policy No. 2.6.4, (June 2002).
- Projects considered part of a school's normal curriculum to be considered ineligible for funding.
- Canvassing of Councillors/Council officers will disqualify.
- A requirement that successful applications provide details of all advertising, promotion and any media publicity to the satisfaction of Council.

An additional objective is recommended to the guidelines for Community Services Fund to support groups that provide services to members of the community who may be considered marginalised.

BACKGROUND

At the Council meeting of 22 December 1998, the City's Community Funding Policy was adopted to take effect from 1 July 1999 and a further report was sought to detail the funding guidelines for each funding category of the Policy (Report CJ286-1298 refers).

At the Council meeting of 14 September 1999, the Community Funding Program Guidelines were adopted (Report CJ304-09/99 refers) together with various amendments to the Community Funding Policy (Report CJ303-09/99 refers).

Together, the Policy and Guidelines form the City's Community Funding Program, a program, which has been developed to enable the City to provide financial assistance to not-for-profit organisations in support of a range of community development initiatives consistent with the City's strategic objectives.

At the Council meeting of 11 April 2000, the outcomes of the first year of administering the Community Funding Program were reported to Council (Report CJ077-04/00 refers). It was noted that a further report would be provided to Council proposing certain enhancements to the Community Funding Program.

The Community Funding Program was further developed following a report to Council in September 2000 (Report CJ247-09/00 refers) and a revised Community Funding Policy was adopted.

Further amendments to the Community Funding Policy were recommended and adopted by Council at the meeting of 11 September 2001 (Report CJ298 - 09/01 refers).

DETAILS

An annual review of the Community Funding Program was conducted in July 2003, by the administrating officers of each fund category under the program, coordinated by a project officer.

The proposed amendments to the Community Funding Policy are shown in the amended policy statement included as Attachment 1. The proposed amendments to the Community Funding Program Guidelines are shown in the amended guidelines included as Attachment 2. The amendments are shown with the wording, where a change is proposed, struck through and any additional wording underlined.

The major amendments and their rationale are as follows:

POLICY

Sustainable Development Fund (Scope and Points 2.3 and 2.5)

The Environmental and Sustainable Development Fund and the Economic Development Fund have been amalgamated and have been renamed as the Sustainable Development Fund. This will better reflect the City's Strategic Plan and the Environmental, Social and Economic Sustainability Policy No. 2.6.4, (June 2002).

It was considered that including "Environment" in the name of the 'Environment and Sustainable Development Fund was unnecessary and that the amalgamation with the Economic Development Fund will more accurately reflect the term 'sustainability' by bringing together each of the disciplines of the triple bottom line (environmental, social and economic). Accordingly, throughout the Policy and Guidelines any reference to "environmental sustainability" and the "Economic Development Fund" have been removed.

As a result of this amalgamation, the total funds available for the renamed Sustainable Development fund for the 2003/04 financial year will be \$40,000 (\$20,000 from the Environmental and Sustainable Development Fund and \$20,000 from the Economic Development Fund).

It should be noted that the funds remaining available in the Economic Development Fund to be transferred to the Sustainable Development Fund for disbursement in the 2003/04 financial year is now \$10,000 due to a grant being made to the Joondalup Business Incubator. (Report C125-07/03 refers). As a result, the total funds available for the Sustainable Development Fund for the 2003/04 financial year is now \$30,000.

4.2 Ineligible Projects, Activities or Events

4.2.7 projects considered part of a school's normal curriculum;

The costs incurred in conducting projects which form part of the normal school curriculum are considered to be recurrent operational costs. Therefore, these projects would be ineligible for funding under this program in accordance with point 4.2.2 of the policy. The program administering officers considered that this point should be highlighted in both the policy and guidelines.

This point has also been included in the Community Funding Program Guidelines under "What projects, Events and/or Activities are Eligible", Council will not fund the following, point 7.

4.4 Other

4.4.6 Canvassing of Councillors/Council officers will disqualify.

7.1 Reporting Requirements

7.1.4 Provide details of all advertising, promotion and any media publicity to the satisfaction of Council.

GUIDELINES

Community Services Fund

The following objective has been added to the Community Services Fund:

4. To support groups that provide services to members of the community who may be considered marginalised.

The purpose of this objective is to broaden the range of community organisations which are eligible to apply for funding under this category while maintaining an emphasis on Youth and Seniors within the community.

Sustainable Development Fund

The objectives and priorities of the former Economic Development Fund and the Environment and Sustainable Development Fund have been amalgamated to form the objectives and priorities for the new Sustainable Development Fund.

COMMENT

The amendments to the existing Community Funding Policy and Guidelines which are included in this report are proposed with a view to enhance the current Policy and to re-align the policy to the newly adopted Strategic Plan 2003-2008.

The Community Funding Program Guidelines will be updated to reflect the amended Community Funding Policy.

At the Council meeting of 29 July 2003, a motion was passed to establish a Policy Manual Review Committee (Item C145-07/03 refers). It is requested that the review of the Community Funding Policy not be held over to the next meeting of the Policy Review Committee as this would delay the advertising of the 1st funding round of the Community Funding Program. If the review of this policy was delayed beyond the Council meeting of 29 August 2003, it would not be possible to arrange distribution of funding prior to Council going into recess over the Christmas period.

ATTACHMENTS

Attachment 1 Community Funding Policy

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Walker that Council REVOKES existing Policy 4.1.1 – Community Funding – and replaces it with the revised Community Funding Policy 4.1.1 forming Attachment 1 to Report CJ193-08/03.

The Motion was Put and

CARRIED UNANIMOUSLY (15/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf120803.pdf](#)

CJ194 - 08/03 CRAIGIE LEISURE CENTRE – REDEVELOPMENT RECOMMENDATIONS - [09050]

WARD - All

PURPOSE

- To brief Council of the actions following from the previous report pertaining to further consultation and investigation.
- To provide Council with a recommended development option for the Craigie Leisure Centre redevelopment project.

EXECUTIVE SUMMARY

At the Council meeting of 17 June 2003, Report CJ130-06/03 “Craigie Leisure Centre - Redevelopment Recommendations” sought to:

- 1 Brief Council on the background, current status, issues and redevelopment options pertaining to the redevelopment of the Craigie Leisure Centre;
- 2 Seek Council approval to progress with Option 6 for the redevelopment of Craigie Leisure Centre;
- 3 Seek Council approval for the project budget of \$7.5 million to be expended in the 2003/04 and 2004/05 financial years.

At that meeting, Council discussed the need to undertake further consultation with the community with regard to the redevelopment recommendations. It was resolved:

That Council:

1. ADOPTS Option 6 for the redevelopment of Craigie Leisure Centre Aquatic Facility subject to public consultation in relation to Option 6;
- 2 SEEKS approval for the project budget of \$7.5 million to be expended in the 2003/04 and 2004/05 financial years.

With regard to the resolution to adopt Option 6 (Attachment 1 refers) subject to further consultation, the City has subsequently undertaken the following;

- Development of a static display which presented various design options;
- Undertaking of further workshops and user and peer group meetings; and
- Engagement of an independent community consultation consultant to:
 - Audit the City’s consultation process; and
 - Ensure that the consultation processes have considered all of the community’s requests.

With regards to the resolution regarding the budget, at the Special Meeting of Council on 5 August 2003, a project budget of \$7.5 million was approved in the 2003/04 budget. Council also included a further allowance of \$0.6 million to enable the consideration of the inclusion of a geo-thermal heating system in the Craigie Leisure Centre to provide sufficient heating capacity to enable the future provision of a 50 metre outdoor pool in an economic manner.

In the course of the further consultation requested by Council in the 17 June 2003 resolution, there has been a strong sentiment towards the inclusion of a 50 metre pool was conveyed by a specific segment of the community. This issue was clearly conveyed to Council staff and consultants at several workshops, meetings and representations.

The strong sentiment from some sections of the community has been somewhat balanced by the views of other individuals, leisure facility managers, aquatic sport peak bodies and existing facility users that a 50 metre pool is not a key requirement for the Craigie Leisure Centre. It is important to also note that this additional consultation process has been dominated by specific user groups and has not been able to capture the key demographic groups of children, youth, families and seniors.

Given the community's reaction to the recommendations regarding the Craigie Leisure Centre, the Executive Management Team instructed the Project Team to commission an independent community consultation company (Creating Communities) to undertake a two part brief, this being:

- To conduct further workshops to ensure and test that the needs of users have been heard in the planning process and addressed in the concept design phase of the JCPA commission; and
- Conduct an audit of the consultation process that culminated in the 17 June report recommendations to Council.

The Creating Communities report stated '*It was very evident that no new information arose from the workshops with peak bodies and Craigie Leisure Centre users*'. The full reports are provided as attachment 4.

Given this, it is recommended in this report that Council:

- Notes the consultation processes that have been undertaken as a result of the Council resolution of 17 June 2003 (Item CJ130 06/03 refers)
- Proceeds with Option 6 for the redevelopment of Craigie Leisure Centre in accordance with the approved budget.
- Investigates the inclusion of a geo-thermal heating system in the Craigie Leisure Centre.

BACKGROUND

At its 17 June 2003 meeting, Council considered the recommendation for the redevelopment of the Craigie Leisure Centre contained within the report '*CJ130 - 06/03 Craigie Leisure Centre – Redevelopment Recommendations*'.

This report recommended that Council:

1. *ADOPTS Option 6 for the redevelopment of Craigie Leisure Centre Aquatic Facility;*
2. *SEEKS approval for the project budget of \$7.5 million to be expended in the 2003/04 and 2004/05 financial years.*

Prior to Council considering the report at the 17 June Council meeting, several elected members had received representation from individual users. These individuals have suggested that a 50 metre pool was the key component of the future Craigie Leisure Centre and that the consultation processes were entirely inadequate.

Given this community feeling, the ensuing debate highlighted a consideration by the Council that additional consultation was required to validate the recommendations. As such, Council subsequently resolved that:

Council

1. **ADOPTS Option 6 for the redevelopment of Craigie Leisure Centre Aquatic Facility subject to public consultation in relation to Option 6;**
2. SEEKS approval for the project budget of \$7.5 million to be expended in the 2003/04 and 2004/05 financial years.

In light of the consultation processes already undertaken in formulating the recommendation, Council officers prepared and conducted a public display at three locations in the City. The static display illustrated all options for the redevelopment of the Craigie Leisure Centre and the selection process undertaken to arrive at the recommended option.

The public display was also presented in 2 additional meetings being:

- Peer review; and
- User groups.

Feedback from the consultation undertaken, included representation to elected members and senior staff by individuals, extensive coverage in the community newspapers and correspondence to elected members and the City. Consequently the Executive Management Team of the City instructed the Project team to appoint an independent community consultation specialist to further investigate the process and to further test the recommendations.

Creating Communities was subsequently appointed to undertake further workshops and carry out an independent audit on the consultation process and reporting to Council.

These processes are summarised below.

INITIAL CONSULTATION

A detailed account of the consultation processes undertaken by ABV Consultants in the Needs Analysis and James Christou and Partners Architects in the brief development stage is provided in report CJ130-06/03.

FURTHER CONSULTATION (Process following 17 June 2003 Council Resolution)

Following the Council resolution of 17 June 2003, a detailed programme whereby the community's input was sought on the various options was undertaken. This included:

- Staffed information display;
- Questionnaire;
- User Group meetings;
- Peer review meeting;
- Media review;
- Appointment of Creating Communities to conduct:
 - Further Peer and peak body group workshop
 - Further user group workshop
 - Audit of consultation processes
- Community Submissions.

These are summarised below.

Staffed Information Display

A staffed information display of the recommended and non-preferred design options was conducted at three key locations across the City. This included Craigie Leisure Centre, City of Joondalup Library and Whitfords City Shopping Centre. The information display highlighted options with architectural drawings, the cost-benefit matrix and key features of the proposed option. The highest attended site by the community was Craigie Leisure Centre where the information display was in fact kept on show beyond the proposed times due to the demand to see the proposed facilities.

Questionnaire

A questionnaire interrogating the recommended option was provided with the staffed information display to seek and track the community's feedback on how this design would meet their needs. The questionnaire was designed to highlight the facilities that the respondents would use, their overall impression of the facility and how well they believed the facility would meet their future needs. Within the questionnaire respondents also had an opportunity to make further comments on the proposed design and any shortcomings of the design and the process. A total of 129 questionnaires were completed. The questionnaire is provided as Attachment 2. The findings of the questionnaire have been detailed in Attachment 3.

A summary of findings of the questionnaire was:

- 59% of respondent's impression of the design was good.
- The highlighted areas of the facility that the respondents said they would use included the 25m pool (71 responses), Leisure pool (70), Coffee shop (69) and Gym (68).
- 56% of respondents were satisfied that the design of the facility would meet their future needs.
- The most consistent comments that were highlighted through the 'other comments' section of the questionnaire related to the inclusion of an 8 lane 50-metre pool and whether the depth of the 25m pools would allow for deep-water aqua-aerobics.

User Group Meetings

A series of meetings were held during the second consultation process to allow sections of the community who had previously been involved in the design brief of the facility to provide feedback on the proposed design. Three meetings were conducted at the Centre with user groups/stakeholders, staff and seniors and are summarised below.

User group/stakeholder

Held on Wednesday 2 July 2003 with the consulting architect James Christou and key user groups, customers and stakeholders of the Centre. The Architect described to the group how the design brief was established, how the design brief related to the final design of the Centre and the features/facilities of the Centre. Participation in this meeting was intended to be for the whole community, however, specific swim groups were strongly represented at the forum. Participants at this meeting clearly expressed that a 50 metre pool should be the priority facility considered in this redevelopment. The participants also believed that the City of Joondalup should allocate additional funds to the project to allow for the inclusion of a 50 metre pool.

At the conclusion of the meeting when asked by the Architect what was the group's preferred design option, the group said they would not support Option 6 without a 50 metre pool, however the group would support Option 6 with an outdoor 50 metre pool.

This meeting closed with the group resolving that the City of Joondalup Officers attending the meeting would report back to Council on their needs being resolved on the night as:

'Council adopts option 6 including an outdoor 50 metre pool'.

Staff

Held on Wednesday 2 July 2003 with consulting architect James Christou and key staff at the Centre. Fifteen staff attended from key areas of the Centre including reception, gym, crèche, group fitness and administration. The Architect reported back to the staff on how the design brief was established, how the design brief related to the final design of the Centre and the features/facilities of the Centre. Questions fielded by staff related to detail issues of the design, in particular the depths of the pools, the size of the gym, aerobics and crèche facilities. Staff highlighted their support for design option 6.

Seniors Exercise Group

Held on Wednesday 2 July 2003 with the Manager Leisure Centres to discuss the proposed design's features/facilities and to field any questions or comments regarding the design. Participants responded on the design through the questionnaire following the meeting. Questions raised at the meeting were focused on the design's abilities to be able to meet their specific needs, which included deep water, simple access into the pools and the amount of showers available in change rooms. The seniors exercise group highlighted their support for the design if the above considerations were to be included in the final detailed design.

Media Review

The Wanneroo Times and Joondalup Community newspaper were used to communicate to the community the dates, times and locations of the staffed information display. It also featured pictures of the proposed design option and an email address for participants wishing to make comments on line.

Appointment of Creating Communities

The third series of consultation conducted by Creating Communities (reports in Attachment 4) highlighted that the community who would use Craigie Leisure Centre for lap swimming would prefer an 8 lane 50 metre pool to an 8 lane 25 metre pool. This section of the community believed the City of Joondalup should fund the additional capital expenditure required to supply a 50 metre pool and should commit to the ongoing operational deficit of operating such a facility, without an increase in fees for users. The consultation process also highlighted that over 50% of questionnaires received were in favour of the proposed design. It also highlighted that the seniors had very specific needs in relation to the provision of a deep warm water exercise pool.

Community submissions

Petitions Received (Attachment 5 refers)

Two petitions have been received from the community.

The first petition of 152 signatures is as follows:

“We the undersigned, request that the City of Joondalup delay making a decision on the redevelopment of the Craigie Leisure Centre until further options which include a 50 metre 8 lane (2.5 m width) pool with 25 metre pool and children’s aquatic area are presented to Council with complete costings.

It should be noted that a 50 metre pool is regarded as a top priority above all other enhancements, and at least one of the above options should be costed at no more than \$7.5 million.”

The proposal contained within this petition has been addressed in the concept development phase by the project team. It is the advice of the project team that it is not possible to produce what is requested for a budget of \$7.5 million without substantially compromising on functionality of the design. To meet the design requirement suggested in the petition is as per the Project Team’s original option 6 presentation which included an outdoor 50 metre pool at a total estimated cost of \$10.5 million.

The second petition of 53 signatures is as follows:

“The members of Westcoast Masters Swimming Club (current membership 130+) reject proposals for the redevelopment of Craigie Leisure Aquatic facilities, on the basis that they would not meet the needs of our club (see letter dated 2/7/03 lodged with the project manager for further details).”

Community Design Submissions

A number of proposals have been submitted to Council officers as recommended alternatives to those already presented. An example of these is attachment 6.

The project team, including the project Architect and the Quantity Surveyor, has assessed all additional plans submitted. The plans submitted are variations on those already assessed by the project team and presented no new information. The plans submitted represent either greater estimated cost or are lacking in other key design and operational elements, principally, leisure water space. The additional costs associated with the various designs were principally a result of having to undertake substantial additional structural modifications to the building or substantial additional works to the plant and equipment.

OFFICER COMMENT

To assist in Council determining the recommendations contained within this report, it is important to recap on the information contained within previous reports regarding Craigie Leisure Centre and the rationale supporting the recommendations.

Holistic Approach

The Project Team, including the consultant Architect, Quantity Surveyors and their sub-consultants have considered three main areas to adopt a holistic approach to assessing input from the consultative processes and formulating the recommendations. This process has considered:

- capital budget parameters;
- the need to meet as many of the expressed needs of the community as possible; and
- the need to provide a facility which could deliver the best cost benefit to the City considering operational subsidies and community utilisation.

In determining this holistic approach the project team also undertook an extensive competitor needs analysis, industry trends analysis and a peer review (completed at several stages of the process) to ensure that the recommendations were achievable and robust.

Financially Responsible

The report to Council on 17 June 2003 (CJ130 06/03 refers) provided Council with detailed operational costing regarding the financial performance of the various options presented. That report highlighted that Option 6 provided the most efficient operations by comparison to the other options developed.

Consultation Process

The consultation process that has been followed in developing the proposed options has attempted where possible to be thorough, unbiased and rigorous in its coverage of the broad interests of the entire community and conscientious in the pursuit of addressing the varied demands of the community as a whole.

The integrity of the process has been endorsed by the independent audit undertaken by Creating Communities. Creating Communities also independently tested the consultation process to ensure that the needs and demands of the entire community have been addressed in the consultation process.

Findings of follow-up consultation

The overall findings of the follow up consultation process have been mixed with regards to the specific requirements of certain sections of users in the Community. The follow-up consultation was commissioned in direct response to certain groups calling for the inclusion of a 50 metre pool. As such, it is certainly the case that the results of the follow up consultation have been dominated by this issue but not to an overwhelming degree. The findings of the questionnaire and further correspondence from other users of Craigie Leisure Centre have indicated a majority support for the current recommendation.

Regional Influences

The recommendations to proceed with option 6 were undertaken with consideration of the following regional influences:

- From a facility planning and management perspective demonstrating the need for facilities at Craigie Leisure Centre to compliment, as opposed to compete with, other facilities provided in the region. This took into account the location of the Arena Joondalup and other catchment areas of 50 metre pools in the Northern Corridor (attachment 7).
- The provision of a 25-metre facility will meet a large proportion of the needs of schools. Option 6 has been designed specifically to meet the needs of the Education Department Schools Swimming programme, which until the closure of the facility was one of the largest programmes in the State. Option 6 provides for a greater level of utilisation for these purposes. Arena Joondalup, which is a strategic partner of the City of Joondalup, meets the need for 50 metre competition lanes regionally.
- The City of Joondalup made a contribution of \$3.8 million towards the construction of the aquatic facilities at Arena Joondalup. The strategic position behind this decision was based on the Report to the Sport Working Party – Joondalup Multi Sport Complex on the basis that there was a need for a 50 metre pool in the region.

SUMMARY

The presentation of option 6 to Council for consideration is based on providing a facility that:

- Meets the needs of the Community as a whole;
- Presents a business case that has the least impact on the operational budget of the City; and
- Is deliverable within the capital budget parameters available to Council.

The need for a 50 metre pool, as suggested within one of the petitions received by the City, would have the City develop a single 50 metre swimming pool facility at the cost of accommodating the needs of leisure, educational and seniors areas and exclude large segments of the community by its single use nature. Not to provide a facility that was able to meet the diverse needs of seniors, learn to swim and leisure pools would not only be disappointing for the community it would also be detrimental to the operational position of the facility. To exclude an upgrade of the gym area within the Craigie Leisure Centre would also be detrimental to the income generating capacity of the facility, the fitness component of the facility provides a major subsidy to the overall financial position of any leisure centre.

Option 6 provides the City of Joondalup with the most effective balance of investment and utilisation and continues to be the recommended project. The issue of the 50 metre pool was assessed in the original concept development stage and was raised throughout the original consultation processes. It is recognised that any additional water space would be used at peak times, including a 50 metre pool. However, a 50 metre pool is principally an infrastructure item that caters for specific market sectors at great operational and capital cost to the City. A 50 metre pool cannot be provided in place of the leisure and learn to swim pools without the result of not meeting the needs of the majority of user groups.

This conclusion is extensively supported by the original consultation processes, that consultation process undertaken by Creating Communities, the peer and peak bodies substantially experienced in this issue, and other reports (see attachments).

For Council to undertake to install a 50 metre pool in this stage of the Craigie Leisure Centre redevelopment would be a decision with little empirical evidence to support it. The 50 metre pool cannot be provided for within the currently approved budget without Council rejecting the needs of the majority of the previous Craigie Leisure Centre user groups.

ATTACHMENTS

Attachment 1	Recommended option 6
Attachment 2	Questionnaire
Attachment 3	Survey results
Attachment 4	Creating Community Reports
Attachment 5	Petitions
Attachment 6	Sample Community submission
Attachment 7	50 metre pool regional catchments

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES the consultation processes that have been undertaken as a result of the Council resolution of 17 June 2003 (CJ130 06/03 refers);
- 2 PROCEEDS with Option 6 forming Attachment 1 to Report CJ194-08/03 for the redevelopment of Craigie Leisure Centre in accordance with the approved budget;
- 3 INVESTIGATES the inclusion of a geo-thermal heating system in the Craigie Leisure Centre.

MOVED Cr Hollywood, SECONDED Cr Hart that consideration of the redevelopment recommendations for the Craigie Leisure Centre be DEFERRED until a full costing be carried out on an alternative plan to the proposed Option No 6, that includes a 50 metre 8 lane pool and is costed at no more than \$8.1 million.

Discussion ensued.

The Motion was Put and

CARRIED (8/7)

In favour of the Motion: Mayor Carlos, Crs Baker, Caiacob, Hart, Hollywood, O'Brien, Prospero and Walker
Against the Motion: Crs Brewer, Gollant, Kenworthy, Kimber, Mackintosh, Nixon and Rowlands

Appendices 7, 7(a), 7(b), 7(c), 7(d), 7(e) and 7(f) refer

To access this attachment on electronic document, click here: [Attach7agn190803.pdf](#)

[Attach7aagn190803.pdf](#)

[Attach7bagn190803.pdf](#)

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**CJ195 - 08/03 MINUTES OF THE SENIORS INTERESTS
ADVISORY COMMITTEE MEETINGS –
WEDNESDAY, 16 JULY 2003 – [55511]**

WARD - All

PURPOSE

The purpose of this report is to submit to Council the unconfirmed minutes of the meeting of the Seniors Interests Advisory Committee held on Wednesday, 16 July 2003.

SUMMARY

A meeting of the Seniors Interests Advisory Committee was held on Wednesday, 16 July 2003. The unconfirmed minutes of the meetings are submitted for noting by Council.

DETAILS

The minutes of the Seniors Interests Advisory Committee held on 16 July 2003 at the City of Joondalup are included as Attachment 1 to this Report.

The Committee acknowledged the sad passing of Jane Heilkema.

It was recommended that Margaret March, who is the Deputy Community Representative, fill the Community Representative position held by Jane Heilkema.

ATTACHMENTS

Attachment 1 Minutes of the Seniors Interests Advisory Committee Meeting held
16 July 2003

VOTING REQUIREMENTS

Absolute Majority

MOVED Cr Walker, SECONDED Cr Hart that Council:

- 1 NOTES the unconfirmed minutes of the Seniors Interests Advisory Committee meeting held Wednesday, 16 July 2003 forming Attachment 1 to Report CJ195-08/03;**
- 2 APPOINTS Margaret March to fill the Community Representative position previously held by Jane Heilkema.**

Discussion ensued.

To a query raised by Cr Kimber in relation to Item 5.1 of the minutes of the Seniors Interests Advisory Committee meeting held on 16 July 2003 pertaining to the \$1,000 contribution by the City of Joondalup to the Whitford Senior Citizens Centre, it was advised this question would be taken on notice.

During discussion, Cr Kenworthy left the Chamber at 2134 hrs and returned at 2136 hrs.

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (14/1)**

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker **Against the Motion:** Cr Kimber

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf120803.pdf](#)

**CJ196 - 08/03 CONSULTANCY SERVICES FOR THE PROVISION
OF CORPORATE TRAINING COURSES – TENDER
NUMBER 043-02/03 – [23545]**

WARD - All

PURPOSE

To seek Council approval to accept the tenders submitted by Australian Institute of Management (AIM), West Coast Training Solutions and CBS Training – Centre for Business Solutions for the Supply of Consultancy Services for the Provision of Corporate Training Courses in accordance with the terms and conditions provided under Tender Number 043-02/03, for a maximum period of three years, subject to annual review and satisfactory performance.

EXECUTIVE SUMMARY

The City invited tenders through statewide public notice on 4 June 2003 for Consultancy Services for the Provision of Corporate Training Courses. Tenders closed on 18 June 2003.

Thirteen submissions were received from the following:

APMM Group Pty Ltd; Aragon & Associates Pty Ltd	Lifelong Learning Press;
Australian Institute of Management	Maitland Consulting Group Pty Ltd
CBS Training – Centre for Business Solutions	Spherion; Education
Compet Pty Ltd; Drake Training	West Coast Training Solutions

Dynamic Improvements West Coast Training Solutions (additional submission specific to the supervisor/coordinator training course)

Jolin Consulting Human Resources Services

It is recommended that Council accept the tenders submitted by the following Consultants to provide Corporate Training Courses:

Consultant	Corporate Training Courses
Australian Institute of Management	Word 2000 Introductory Word 2000 Intermediate Word 2000 Advanced Excel 2000 Introductory Excel 2000 Intermediate Excel 2000 Advanced Power Point Introduction/Intermediate Power Point Advanced Front Page Introduction/Intermediate Outlook Intermediate Access Introduction/Intermediate Time Management Project Management Dealing with Difficult People Strategic Thinking Negotiation Skills Contract Management Effective Public Speaking Workplace Training – Training Small Groups
West Coast Training Solutions	Report Writing
CBS Training – Centre for Business Solutions	Supervisor/Coordinator Training Programme

in accordance with the terms and conditions, provided under Tender Number 043-02/03, for a maximum period of three years, subject to an annual review and satisfactory performance.

BACKGROUND

Over the past 12 months the City has undertaken two key surveys of the organisation, Training Needs Analysis – July 2002 and Culture Survey – November 2002. The information collected from these surveys, and subsequent staff focus groups, has provided valuable information that underpins the development and implementation of many of the “Employer of Choice” projects, particularly training and development.

Based on the results of the Training Needs Analysis, the City developed a structured Interim corporate training plan, which aimed to:

- Address specific and somewhat urgent training and development requirements of staff;
- Utilise existing budget resources for remainder of financial year in a structured manner;
- Get staff accustomed to operating under structured corporate training plan.

The Interim corporate training plan commenced in February 2003, with training scheduled through to June 2003. Further to the success of the Interim corporate training plan, a twelve-month plan was developed and costed. The twelve-month plan included training courses included in the Interim Plan, with additional courses, such as negotiation skills, effective public speaking and dealing with difficult people. In addition to these course, a specific programme was identified for supervisors / coordinators. The supervisor / coordinator training programme will assist in areas of people management and communication skills. Ideally all supervisors / coordinators will attend this course, which will run over a 12 week period with participants attending one day a fortnight. The program will run a number of times allowing all supervisors / coordinators to attend.

It is proposed that the Corporate Training Program will provide a comprehensive employee training service for the delivery of courses, covering all aspects of workplace training to support and enhance employees' skills within the organisation.

DETAILS

Under the City's Contract Management Framework, the Code of Tendering AS 4120-1994 and Code of ethics and procedures for the selection of consultants AS4121-1994, the tenders were assessed by an evaluation committee using a weighted multi-criterion assessment system.

The conditions of tendering specified that all tenders would be assessed against the pre-determined weighted selection criteria. The selection criteria comprised a set of quantitative and qualitative criteria in the tender documentation. In evaluating the tenders and subject to the Condition of Tendering, the City took into consideration the following criteria:

- 1 Lump Sum Price and other information provided under the Lump Sum Price Schedule.
- 2 Proven experience in providing high quality training programmes;
- 3 Accredited training programmes, where possible;
- 4 Highly skilled and qualified trainers – trainers will need to have at least a qualification at Certificate IV in Workplace Trainer and Assessor and 5 Years relevant training experience;
- 5 Proven experience in customising training programmes to meet client's specific requirements;
- 6 Use quality, relevant up to date training resources and material;
- 7 Tenderers must specify if they are able to deliver the programmes on the dates outlined in the Tender.

The specified courses included in the Tender are as follows:

Word	Introductory, Intermediate, Advanced
Excel	Introductory, Intermediate, Advanced
Power Point	Introductory/Intermediate, Advanced
Front Page	Introductory/Intermediate
Outlook	Intermediate
Access	Introductory/Intermediate
Strategic Thinking	
Time Management	
Project Management	Introduction
Report Writing	
Workplace Training – Training Small Groups	
Dealing with Difficult People	
Negotiation Skills	
Contract Management	
Effective Public Speaking	
Supervisor/Coordinator Specific Programme	

Evaluation Results

Tenders were evaluated based on the information provided in each submission and in accordance with the conditions of tendering, against the pre-determined selection criteria. The weightings remained unaltered throughout the evaluation process, thereby maintaining the integrity of the tender evaluation processes.

Corporate training courses were evaluated individually based on the selection criteria, and a maximum of ten participants attending each course.

Tenderers specified which courses they intend to deliver, with two submissions, AIM and Lifelong Learning Press, specifying all courses.

West Coast Training College's provided a submission for seventeen courses and an individual submission for the Supervisor/Coordinator Training Programme. CBS provided a submission specifically addressing the Supervisor /Coordinator Training Programme.

The overall prices per course submitted range from: \$800 to \$2000 for Information Technology Courses, \$1,500 to \$6,800 for Management & Personal Development Courses and \$6,000 to \$14,700 for the Supervisor/Coordinator Training Programme.

Although AIM did not provide the lowest price for each course submitted, their percentage scores for quality, determined their overall ranking.

Seven submissions offered Corporate Training for the Report Writing programme, West Coast ranked first in the qualitative and quantitative criteria.

Ten submissions offered Corporate Training for the Supervisor/Coordinator Training Programme. CBS Training – Centre for Business Solutions did not provide the lowest price, the percentage scores for the quality, determined their overall ranking.

The tenders received varied in content, clarity and professionalism, however as a result of the assessment the evaluation committee determined the following recommendation.

AIM clearly demonstrated that they have highly skilled and qualified trainers with academic and industry background. They have the proven experience and resources in delivering high quality accredited training courses to a variety of large and reputable organisations.

As a result of the assessment AIM ranked first in the following:

Course Description & Duration	Fee per Course	Number of Courses 03/04
Word 2000 Introductory - (1 day)	\$910.00	3
Word 2000 Intermediate - (1 day)	\$910.00	4
Word 2000 Advanced - (2 days)	\$1,820.00	1
Excel 2000 Introductory - (1 day)	\$910.00	3
Excel 2000 Intermediate - (1 day)	\$910.00	4
Excel 2000 Advanced - (2 days)	\$1,820.00	1
Power Point Introduction/Intermediate (2 days)	\$1,820.00	2
Power Point Advanced - (1 day)	\$910.00	1
Front Page Introduction/Intermediate (1 day)	\$910.00	1
Outlook Intermediate - (1 day)	\$910.00	3
Access Introduction/Intermediate - (1 day)	\$910.00	1
Time Management - (1 day)	\$1,800.00	1
Project Management - (2 days)	\$3,960.00	1
Dealing with Difficult People (1 day)	\$1,800.00	2
Strategic Thinking - (2 days)	\$4,400.00	1
Negotiation Skills - (1 day)	\$2,000.00	1
Contract Management	\$1,800.00	1
Effective Public Speaking (1 day)	\$1,800.00	1
Workplace Training – Training Small Groups - (3 days)	\$5,400-\$8,200 (based on two facilitators if required).	3

West Coast Training Solutions, demonstrated that they have the experience in customising their programme and a proven track record in designing and delivering Corporate Training Programmes.

West Coast Training Solutions, ranked first to deliver the Corporate Training Programme for Report Writing for a fee of \$1100 per course (duration – 1 day).

CBS Training – Centre for Business Solutions submitted a detailed submission specifically for the Supervisor/Coordinator Training Programme, which offered a nationally accredited training course, which forms part of the competencies required for the BSB50101 Diploma in Business.

CBS Training – Centre for Business Solutions demonstrated that they have a quality product and the expertise to provide the Supervisor/Coordinator Corporate Training Course for a fee of \$8,900 per course (duration 5 days).

Policy 2.4.6. Purchasing Goods and Services

The City's Policy on purchasing goods and services encourages local businesses in the purchasing and tendering process. The City provides notification to the Joondalup Business Association of advertised tenders who in turn notify local providers. Tenders received from providers located within the boundaries of the City of Joondalup include, Jolin Consulting Human Resource Services, APM Group Pty Ltd and West Coast Training Solutions.

Statutory Provisions

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulation 1996*. Advertising this tender also ensures compliance with the *Local Government (F&G) Regulation 1996*, where tenders are required to be publicly invited if the consideration under a contract is expected to be or worth more than \$50,000. The expected consideration for this contract is expected to exceed the Chief Executive Officer's Delegated Authority in relation to the acceptance of tenders of \$100,000.

Financial Implications:

As part of the 2003/2004 budget the City has allocated a corporate training budget of \$100,000 centrally located in the Human Resources budget. The investment for scheduled courses as outlined in the 2003/2004 Corporate Training Plan is \$79,340. Based on this the total investment, for three years, is approximately \$238,020.

COMMENT

As a part of contract management processes, the City will regularly review / monitor the Contractor's performance and service quality to ensure services meet the City's standards.

The Contract will commence from 1 September 2003 for a maximum period of three years subject to annual reviews and satisfactory performance. A formal review will be conducted every twelve months to ensure that the requirements of the Contract have been met. Subject to the outcome of each review an extension in increments of twelve-month periods will be extended within the three-year term.

Australian Institute of Management, West Coast Training College and CBS Training – Centre for Business Solutions demonstrated that they have the ability to provide best value for money based on the selection criteria and the outcome of the tender evaluation.

VOTING REQUIREMENTS

Simple Majority

Cr Mackintosh left the Chamber, the time being 2138 hrs.

MOVED Cr Prospero, SECONDED Cr Brewer that Council ACCEPTS the tenders submitted by the following consultants to provide corporate training courses in accordance with the terms and conditions, provided under Tender Number 043-02/03, for a maximum period of three years, subject to an annual review and satisfactory performance:

Consultant**Australian Institute of Management****Corporate Training Courses**

Word 2000 Introductory
Word 2000 Intermediate
Word 2000 Advanced
Excel 2000 Introductory
Excel 2000 Intermediate
Excel 2000 Advanced
Power Point
Introduction/Intermediate
Power Point Advanced
Front Page
Introduction/Intermediate
Outlook Intermediate
Access Introduction/Intermediate
Time Management
Project Management
Dealing with Difficult People
Strategic Thinking
Negotiation Skills
Contract Management
Effective Public Speaking
Workplace Training – Training
Small Groups

West Coast Training Solutions**Report Writing****CBS Training – Centre for Business Solutions****Supervisor/Coordinator Training Programme****The Motion was Put and****CARRIED UNANIMOUSLY (14/0)**

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Nixon, O'Brien, Prospero, Rowlands and Walker

C160-08/03**ADJOURNMENT OF MEETING – [02154] [08122]**

MOVED Cr Hollywood, **SECONDED** Cr Walker that in accordance with clause 5.1 of the City's Standing Orders Local Law, the meeting be adjourned for a period of five (5) minutes, the time being 2141 hrs.

The Motion was Put and**CARRIED**

The meeting RESUMED at 2147 hrs, with all elected members being present at this point.

REPORT OF THE CHIEF EXECUTIVE OFFICER

Cr Prospero declared a non-financial interest, which may affect his impartiality in Item C161-08/03 – Joondalup Business Association Incubator as he is a Board member.

C161-08/03 JOONDALUP BUSINESS INCUBATOR – CONTRIBUTION TOWARDS RATES LEVIED - [00104] [20124]

WARD - All

PURPOSE

The purpose of this report is for Council to reconsider the method of providing the Joondalup Business Incubator with financial assistance.

EXECUTIVE SUMMARY

- On 8 July 2003 Council resolved to provide grant assistance to prospective Joondalup Business Incubator (JBI) tenants.
- JBI has expressed concern at this method of assistance and has requested the Funds be provided directly to them for marketing and promotional assistance.
- Due to Council's resolution, the City does not have the capacity to deal with this matter without referring it back to Council.

Recommendation

That Council authorises \$9,900.00 in grant funds previously approved to offset the lease costs of users of the Joondalup Business Incubator, to be provided directly to the Joondalup Business Incubator for the purpose of marketing and promotion.

BACKGROUND

At its meeting of 8 July 2003 Council considered a request from the Joondalup Business Incubator for a contribution from the City towards meeting the JBI's 2003/04 rating assessment (report C125-07/03)

The report presented to Council recommended that instead of providing a contribution to offset rates, that Council sets aside a grant in its 2003/04 budget of \$9,900.00. The purpose of this grant would be to enable six users of the business incubator to receive \$1,650.00 each, to be applied in payment of their first three month rental period with the JBI.

Council subsequently resolved as follows:-

“That Council provides \$9,900.00 in its draft 2003/04 Budget for grants of \$1,650.00 each to offset the lease costs of users of the Joondalup Business Incubator”.

DETAILS

Following Council's decision, as outlined in the background material above, the Executive Management Team together with Councillor Prospero received a deputation from the JBI re the method of assistance authorised by Council.

The members representing the JBI explained that their needs were more immediate than would be provided for by the grant proposal and believed that they would be better placed to attract clients via their own initiatives.

In this regard their view is that the funds budgeted by Council would be better utilised if provided to them directly for the purposes of marketing and promotion.

As this is not strictly in keeping with Council's resolution of 8 July 2003, the matter has been brought back to Council for determination.

COMMENT

On 7 August 2003, the JBI held a function to officially launch the opening of the business incubator. This function was very well supported by Federal and State politicians, the various stakeholders and the local business community.

The premises are purpose built, impressive and should be very attractive to prospective tenants.

Given assistance of Council by way of grant funds totalling \$9,900.00 previously approved, being redirected to the JBI for the purposes of marketing and promotion, the centre will stand a good chance of succeeding and assisting local business in the region.

It is recommended that Council supports the JBI's request to provide the funds, previously approved by Council, directly to the JBI.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Prospero, SECONDED Cr Kimber that Council AUTHORISES \$9,900.00 in grant funds previously approved to offset the lease costs of users of the Joondalup Business Incubator, to be provided directly to the Joondalup Business Incubator for the purpose of marketing and promotion.

The Motion was Put and

CARRIED UNANIMOUSLY (15/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Cr Walker left the Chamber, the time being 2157 hrs.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

C162-08/03 MOTION TO LIE ON THE TABLE - NOTICE OF MOTION – CR M O'BRIEN – RESCISSION OF USE APPROVAL FOR A THERAPEUTIC MASSAGE CENTRE, LOT 9 UNIT 16 (7) DELAGE STREET, JOONDALUP EX (TP107-05/96)

At the Council meeting held on 24 June 2003 the following motion was moved:

MOVED Cr Hollywood SECONDED Cr O'Brien that in accordance with Clause 5.4 of the City's Standing Orders Local Law, the following Motion Lie on the Table:

“That Council BY AN ABSOLUTE MAJORITY, REVOKES and RESCINDS the former City of Wanneroo decision of 29 May 1996, Item TP107-05/96 refers, viz:

“That Council approves the application submitted by Artist Holdings Pty Ltd in respect of the use of Lot 9 unit 16 (7) Delage Street, Joondalup, for the provision of medical and sport related massages subject to:

- 1 There being a maximum of four masseuses working in the subject unit at any one time;*
- 2 Standard and appropriate conditions.”*

and substitutes in lieu therefore;

“That Council:

- 1 Takes into account the claim by the Hon Tony O’Gorman MLA, Member for Joondalup that “Bawdy House Activities,” contrary to Sections 209 & 213 of the Western Australian Criminal Code are allegedly occurring at Unit 16, 7 Delage St, Joondalup, and finds that evidence provided in Mr O’Gorman’s allegation, is of important weighting and is “on the balance of probabilities” a true fact;*
- 2 in light of the credit given to Mr O’Gorman’s allegation Council, having revoked and rescinded TP107-05/96, advises Ross Douglas Fraser, of 1B Saltbush Court, WICKHAM WA 6720, the Registered Proprietor, of (Unit) Lot 16 on Strata Plan 29376 Vol 2123 Folio 938 that the Approval TP107 – 05/96 granted to Artist Holdings Pty Ltd ACN 009 314 765 ABN 89 009 314 765 UNDER EXTERNAL ADMINISTRATION (LIQUIDATOR APPOINTED) has been revoked and rescinded, and that the current Unit Use does not comply, as a permitted land use, pursuant to Council’s District Planning Scheme No 2.;*

- 3 *advises Leila Elaine Neilson, of 4 Addingham Court, CRAIGIE WA 6025, Director and Company Secretary, of Chadstone Pty Ltd ACN 103 565 617 ABN 15 103 565 617 (formerly LEILA'S [Reg. No 0243333G]), Principal Place of Business, Unit 16, 7 Delage Street, JOONDALUP WA 6027, Registered Office, Sergio D'Orazio & Associates, 20 Ballot Way, BALCATT WA 6021 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded;*
- 4 *advises Vincent Leonard Rossi and Cornelia Alida Rossi of 10 Moline Court, CHURCHLANDS WA 6018, Directors of Artist Holdings Pty Ltd, ACN 009 314 765 ABN 89 009 314 765 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded."*

The Motion to Lie on the Table was Put and

*CARRIED BY
EN BLOC RESOLUTION NO 2 (10/1)*

In favour of the Motion: Mayor Carlos, Crs Caiacob, Mackintosh, Gollant, O'Brien, Brewer, Kimber, Prospero, Walker, and Hollywood Against the Motion: Cr Baker

Standing Orders Local Law, Clause 5.4 – The Motion Lie on the Table:

Clause 5.4 states:

If a motion that the motion lie on the table is carried debate on that motion shall not be resumed until a motion has been passed to take the motion from the table.

On a motion for the laying of the motion on the table being carried, a record shall be taken of all those who have spoken on the motion under debate and they shall not be permitted to speak on any resumption of the debate on that motion, but this does not deprive the mover of the motion of the right of reply.

(Note: The Minutes of the Council meeting held on 24 June 2003 recorded that no member spoke on the Notice of Motion submitted by Cr O'Brien)

Any motion that was subject to a resolution that the motion lie on the table and not dealt with subsequently at the same meeting, shall be included in the agenda for the next ordinary meeting.

A member moving the taking of the motion from the table shall be entitled to speak first upon the resumption of the debate thereon.

Prior to any debate occurring on this item, a motion is required to be carried to take the motion from the table.

The Notice of Motion and the reasons for this motion as submitted by Cr O'Brien, are reproduced below:

Cr Mike O'Brien gave notice of his intention to move the following motion at the Council meeting to be held on Tuesday 29 April 2003. Council did not consider this item at its meetings held on 29 April 2003 and 27 May 2003 and it is therefore resubmitted for consideration at the Council meeting to be held on 17 June 2003.

The following elected members have indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr M O'Brien
Cr C Baker
Cr C Mackintosh
Cr T Barnett
Cr A Patterson

"That Council BY AN ABSOLUTE MAJORITY, REVOKES and RESCINDS the former City of Wanneroo decision of 29 May 1996, Item TP107-05/96 refers, viz:

"That Council approves the application submitted by Artist Holdings Pty Ltd in respect of the use of Lot 9 unit 16 (7) Delage Street, Joondalup, for the provision of medical and sport related massages subject to:

- 1 There being a maximum of four masseuses working in the subject unit at any one time;*
- 2 Standard and appropriate conditions."*

and substitutes in lieu therefore;

"That Council:

- 1 Takes into account the claim by the Hon Tony O'Gorman MLA, Member for Joondalup that "Bawdy House Activities," contrary to Sections 209 & 213 of the Western Australian Criminal Code are allegedly occurring at Unit 16, 7 Delage St, Joondalup, and finds that evidence provided in Mr O'Gorman's allegation, is of important weighting and is "on the balance of probabilities" a true fact;*
- 2 in light of the credit given to Mr O'Gorman's allegation Council, having revoked and rescinded TP107-05/96, advises Ross Douglas Fraser, of 1B Saltbush Court, WICKHAM WA 6720, the Registered Proprietor, of (Unit) Lot 16 on Strata Plan 29376 Vol 2123 Folio 938 that the Approval TP107 – 05/96 granted to Artist Holdings Pty Ltd ACN 009 314 765 ABN 89 009 314 765 UNDER EXTERNAL ADMINISTRATION (LIQUIDATOR APPOINTED) has been revoked and rescinded, and that the current Unit Use does not comply, as a permitted land use, pursuant to Council's District Planning Scheme No 2.;*

- 3 *advises Leila Elaine Neilson, of 4 Addingham Court, CRAIGIE WA 6025, Director and Company Secretary, of Chadstone Pty Ltd ACN 103 565 617 ABN 15 103 565 617 (formerly LEILA'S [Reg. No 0243333G]), Principal Place of Business, Unit 16, 7 Delage Street, JOONDALUP WA 6027, Registered Office, Sergio D'Orazio & Associates, 20 Ballot Way, BALCATTWA WA 6021 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded;*
- 4 *advises Vincent Leonard Rossi and Cornelia Alida Rossi of 10 Moline Court, CHURCHLANDS WA 6018, Directors of Artist Holdings Pty Ltd, ACN 009 314 765 ABN 89 009 314 765 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded."*

Reason for Motion:

Cr O'Brien provided the following in support of the above Motion:

- “1 There is no evidence that the former City of Wanneroo Councillors in Decision TP107-05/96 approved “Bawdy House Activities” as a Land Use under City of Wanneroo’s Town Planning Scheme No 1.
- 2 The proprietary company Artist Holdings Pty Ltd as a proprietary company is, according to ASIC Listings, now under External Administration (liquidator appointed) and it seems is no longer a Proprietary Company trading with an interest in Unit 16, 7 Delage Street, Joondalup.
- 3 The City of Joondalup has by its decision in October 2002 decided that “Bawdy House Activities” are not an acceptable Land Use within the boundaries of the Municipality.
- 4 The evidence of the Claim by the Hon Tony O’Gorman MLA, Member for Joondalup, that “Bawdy House Activities” are occurring at Unit 16, 7 Delage Street, Joondalup is “on the balance of probabilities” evidence of enough weight, for Council’s Decision to revoke and rescind the former City of Wanneroo decision of approval to Artist Holdings Pty Ltd.
- 5 Council further reinforced its 15th October 2002 decision, by a unanimous decision on Tuesday 11th March 2003 to prohibit “Bawdy House Activities” as a Land Use in the Municipality, and subsequent to EPA consideration, intends to advertise the amendment to District Planning Scheme No 2. as a Community Consultation, process for 42 days.”

OFFICER’S COMMENTS

Following the receipt of the notice of motion as submitted by Cr O'Brien, legal advice was sought regarding the City’s power to revoke a previously issued planning approval. It is confirmed by the legal advice that the City does not have power under District Planning Scheme No. 2 to revoke a planning approval. The one exception, which is irrelevant for current purposes, is Clause 6.10.2, which provides that an owner may make an application to

revoke a planning approval prior to the commencement of the development, the subject of the approval. It is therefore advised that in accordance with 3.12 of the City's Standing Orders Local Law it would be reasonable for the chairperson to rule the notice of motion out of order as it is reasonable to believe such a decision is beyond jurisdiction of the Council.

VOTING REQUIREMENT

Absolute Majority

MOVED Cr Nixon, SECONDED Cr Hollywood that the Motion be TAKEN FROM THE TABLE.

Discussion ensued.

The Motion was Put and

LOST (6/8)

In favour of the Motion: Mayor Carlos, Crs Hollywood, Kenworthy, Nixon, Prospero and Rowlands
Against the Motion: Crs Baker, Brewer, Caiacob, Gollant, Hart, Kimber, Mackintosh and O'Brien

C163-08/03 NOTICE OF MOTION – CR M O'BRIEN –MUNICIPAL TAX (RATES) - [38634] [20086]

In accordance with Clause 12 of the Standing Orders Local Law, Cr M O'Brien gave notice of his intention to move the following motion at the Council meeting to be held on 27 May 2003:

- "1 That for the 2003 - 2004 Budget Council determines that, pursuant Section 41. and Section 112. of the Health Act 1911, an annual rate shall be set for the provision for removal of refuse and cleansing works;*
- 2 That for the 2003 -2004 Budget Council determines that the Minimum Payment is abolished, thereby no use of Section 6.35 of the Local Government Act 1995 is made in sourcing additional "flat tax" revenue from low value properties in addition to the proportional tax (rates) that such properties attract from the Valuer General's valuation set for such properties."*

At the Council meeting of 27 May 2003, it was resolved that the Motion Lie on the Table.

The Minutes of the Council meeting held on 27 May 2003 recorded that no member spoke on the Notice of Motion submitted by Cr O'Brien.

At the Council meeting held on 8 July 2003, it was resolved that the Motion be taken from the table, however, the motion was not moved.

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

In support of this notice of motion, Cr O'Brien states as follows:

“The reasons for the above is to fairly apportion the Health Act costs in proportion to the Valuer General’s valuations and to abolish the discriminatory “flat taxing” of properties thereby complying with the similar abolition of the Commissioner Imposed “\$27.00 flat tax” that was imposed on Joondalup Properties in 1999 and which was abolished following the result of the 2001 Joondalup Municipal Referendum.

The added position of advantage to the Municipality is that the State Government Treasury pays the Municipality 50% of the amount the Municipality Bills its Pensioners for any “Rates” but doesn't pay the Municipality 50% of any “flat” Health Act charge.”

For Councillors assistance the relevant sections of both Acts are included below:

HEALTH ACT 1911 - SECT 41

41. Sanitary rate

Every local government may from time to time, as occasion may require, make and levy as aforesaid and cause to be collected an annual rate for the purpose of providing for the proper performance of all or any of the services mentioned in section 112, and the maintenance of any sewerage works constructed by the local government under Part IV

Such annual rate shall not exceed –

- (a) 12 cents in the dollar on the gross rental value; or
- (b) where the system of valuation on the basis of the unimproved value is adopted, 3 cents in the dollar on the unimproved value of the land in fee simple:

Provided that the local government may direct that the minimum annual amount payable in respect of any one separate tenement shall not be less than \$1.

Provided also, that where any land in the district is not connected with any sewer, and a septic tank or other sewerage system approved by the local government is installed and used upon such land by the owner or occupier thereof for the collection, removal, and disposal of night soil, urine, and liquid wastes upon such land, the local government may by an entry in the rate record exempt such land from assessment of the annual rate made and levied under this section, and, in lieu of such annual rate, may, in respect of such land, make an annual charge under and in accordance with section 106 for the removal of refuse from such land.

[Section 41 amended by No. 5 of 1933 s.2; No. 38 of 1933 s.2; No. 25 of 1950 s.5; No. 113 of 1965 s.4(1); No. 2 of 1975 s.3; No. 76 of 1978 s.51; No. 14 of 1996 s.4.]

HEALTH ACT 1911 - SECTION 112

112 - Local government to provide for removal of refuse and cleansing works (1) A local government may, and when the Executive Director, Public Health so requires, shall undertake or contract for the efficient execution of the following works within its district, or any specified part of its district:

- (a) The removal of house and trade refuse and other rubbish from premises.
- (b) The supply of disinfectants for the prevention or control of disease, and pesticides for the destruction of pests.
- (c) The cleansing of sanitary conveniences and drains.
- (d) The collection and disposal of sewage.
- (e) The cleaning and watering of streets.
- (f) The providing, in proper and suitable places, of receptacles for the temporary deposit of refuse and rubbish collected under this section.
- (g) The providing of suitable places, buildings, and appliances for the disposal of refuse, rubbish and sewage.
- (ga) The construction and installation of plant for the disposal of refuse, rubbish and sewage.
- (h) The collection and disposal of the carcasses of dead animals:

Provided that it shall not be lawful to deposit nightsoil in any place where it will be a nuisance or injurious or dangerous to health.

- (2) Any local government which has undertaken or contracted for the efficient execution of any such work as aforesaid within its district or any part thereof may by local law prohibit any person executing or undertaking the execution of any of the work undertaken or contracted for within the district or within such part thereof as aforesaid, as the case may be, so long as the local government or its contractor executes or continues the execution of the work or is prepared and willing to execute or continue the execution of the work.
- (3) After the end of the year 1934 no nightsoil collected in one district shall be deposited in any other district, except with the consent of the local government of such other district, or of the Executive Director, Public Health.

[Section 112 amended by No. 17 of 1918 s.11; No. 30 of 1932 s.17; No. 45 of 1954 s.3; No. 38 of 1960 s.3; No. 102 of 1972 s.9; No. 28 of 1984 s.45; No. 14 of 1996 s.4; No. 28 of 1996 s.8.]

LOCAL GOVERNMENT ACT 1995 - SECT 6.35

6.35. Minimum payment

- (1) Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.

- (2) A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.
- (3) In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than 50% of the number of separately rated properties in the district on which a minimum payment is imposed.
- (4) A minimum payment is not to be imposed on more than the prescribed percentage of the number of separately rated properties in the district unless the general minimum does not exceed the prescribed amount.
- (5) If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.
- (6) For the purposes of this section a minimum payment may be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) -
 - (a) to land rated on gross rental value;
 - (b) to land rated on unimproved value; and
 - (c) to each differential rating category where a differential general rate is imposed.”

OFFICER’S COMMENT

Domestic Refuse Charge

The domestic refuse charge is currently a user-based charge of \$122 per service provided with total budgeted revenue of \$6.5m in the 2002/03 year. The proposed change will include the funding for these services in the general rates. This will result in an increase in the rate-in-the-dollar and redistribute the costs of providing those services across all ratepayers according to the value of the property.

Minimum Payments

The distribution of general rates is in accordance with property values. The Minimum Payment (set at \$450 for the 2002/03 year and is applicable to 9,477 properties) recognises that the City provides a base level of service, which is available to all properties. As the total amount to be funded from general rates remains the same, the removal of the Minimum Payment criteria will result in an increase in the rate-in-the-dollar and redistribute the general rates across all ratepayers according to the value of the property with ratepayers with higher GRV's having to compensate for those with lower GRVs.

Recommendation

These items have been included for discussion in the Budget Committee agenda and it is recommended the issues be addressed fully as part of the budget deliberations. Officers will prepare more detailed information to assist the Budget Committee in understanding the ramifications associated with these items.

VOTING REQUIREMENT

Simple Majority

Cr O'Brien advised that he wished the Notice of Motion to be **WITHDRAWN**

C164-08/03 NOTICE OF MOTION – CR M O'BRIEN – ABANDONMENT OF PRECINCT PLANNING

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr M O'Brien gave notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

“That Council EXPANDS its decision (Council Minutes 12 February 2002 refer) and ABANDONS ALL so called Community Visioning Precinct Action Planning Activity Concepts that envisage re-zoning and vehicular and pedestrian access way changes and any interference by residential and/or private enterprise commercial development within Parks and Public Open Space Areas, within the Municipal Boundaries of the whole of City of Joondalup and informs its Planning Department Officers and the Western Australian Planning Commission that, any individual applications for Higher Density will be only considered, individually, in places where there is Full and Demonstrable Community support indicated, after a Full Community Consultation Process has been undertaken, in the whole of the Locality (Suburb).”

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

OFFICER'S COMMENT

The Council has previously discontinued the precinct planning process due to the weight of submissions received against that process. Sensitivities to the process are well understood by the Council.

The City has an obligation to consider proposals on their merits. Regardless of the adoption of a resolution in the form suggested above, a proponent has a right to lodge and request consideration of planning proposals. Those proposals may be in the form of development applications, rezoning of land or in relation to structure plans.

It is believed that the Council understands the previous concerns made in relation to precinct planning proposals and further that it would exercise sensitivity and caution with proposals to reconfigure commercial centres within the City.

It is respectfully suggested that the above motion is redundant given the previous resolutions adopted by the Council.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr O'Brien, SECONDED Cr Caiacob that Council EXPANDS its decision (Council Minutes 12 February 2002 refer) and ABANDONS ALL so called Community Visioning Precinct Action Planning Activity Concepts that envisage re-zoning and vehicular and pedestrian access way changes and any interference by residential and/or private enterprise commercial development within Parks and Public Open Space Areas, within the Municipal Boundaries of the whole of City of Joondalup and informs its Planning Department Officers and the Western Australian Planning Commission that, any individual applications for Higher Density will be only considered, individually, in places where there is Full and Demonstrable Community support indicated, after a Full Community Consultation Process has been undertaken, in the whole of the Locality (Suburb).

Discussion ensued.

*During discussion, Cr Walker entered the Chamber, the time being 2201 hrs;
Cr Kenworthy left the Chamber at 2202 hrs and returned at 2203 hrs.*

Extension of Time to Speak

MOVED Cr Hart, SECONDED Cr Baker that Cr O'Brien be permitted an extension of time to speak.

The Motion to Extend was Put and

LOST (6/9)

In favour of the Motion: Crs Baker, Caiacob, Hart, Mackintosh, O'Brien and Walker **Against the Motion:** Mayor Carlos, Crs Brewer, Gollant, Hollywood, Kenworthy, Kimber, Nixon, Prospero and Rowlands

Discussion resumed.

Cr Nixon left the Chamber at 2214 hrs and returned at 2221 hrs.

MOVED Cr Prospero, SECONDED Cr Mackintosh that Motion BE NOW PUT.

The Procedural Motion was Put and

CARRIED (12/3)

In favour of the Motion: Mayor Carlos, Crs Brewer, Caiacob, Gollant, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Prospero, Rowlands and Walker **Against the Motion:** Crs Baker, Hart and O'Brien

Discussion resumed.

Mayor Carlos requested Cr O'Brien to withdraw inappropriate terminology he had used. Cr O'Brien advised he would withdraw the use of the word "scurrilous", but would not withdraw the use of the word "furphy".

**The Motion as Moved by Cr O'Brien, Seconded by Cr Caiacob was Put and
LOST (5/10)**

In favour of the Motion: Crs Caiacob, Hart, Nixon, O'Brien and Walker **Against the Motion:** Mayor Carlos, Crs Baker, Brewer, Gollant, Hollywood, Kenworthy, Kimber, Mackintosh, Prospero and Rowlands

C165-08/03 NOTICE OF MOTION – CR P ROWLANDS – HOME LOANS

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr P Rowlands gave notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

"That Council invites suitable financial institutions to prepare submissions in relation to supplying City of Joondalup residents with discounted home loans."

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

Reason for Motion:

Cr Rowlands has provided the following comment in support of the Motion:

“This motion has the potential to significantly benefit our ratepayers with mortgages. A couple with an average \$150,000 loan would save hundreds of dollars per year, in other words, it is like having your rates paid by the bank. This issue is not a traditional area for local government to get involved with but there is no reason that we cannot think outside the square to try help our residents.”

OFFICER'S COMMENT

Officers could develop a shortlist of relevant financial institutions to be invited to submit proposals. This would be a relatively inexpensive process as there is no need to go through a formal expression of interest/tender process in the absence of any financial consideration being involved.

It is envisaged that the invitation would be a moderately simple document stating the City's objective i.e. "supplying City of Joondalup residents with discounted home loans" and requesting appropriate proposals.

VOTING REQUIREMENTS

Simple Majority

Cr Rowlands advised that he wished the Notice of Motion to be **WITHDRAWN**

C166-08/03 NOTICE OF MOTION – CR P KIMBER – COUNCIL SEATING ARRANGEMENTS

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr P Kimber gave notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

“That Council AGREES that:

- 1 the seat to the right of the Mayor within the Council Chamber shall remain available for seating of special guests, at the invitation of the Mayor;*
- 2 the Deputy Mayor shall be allocated a seat on the floor of the Council Chamber next to their fellow ward representative.”*

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

OFFICER’S COMMENT

It was the practice of the former City of Wanneroo to allow the Deputy Mayor to sit alongside the Mayor during Council meetings. This practice was discontinued with the newly elected Council of the City of Joondalup until recently with the current Mayor agreeing to seat the Deputy Mayor to his right.

The newly constituted City of Joondalup allowed the Mayor to be elected by the people of the City, with the Deputy Mayor being elected by the Council for a two-year term. It is regarded that the Deputy Mayor is the elected head of the Council by their peers, and serves as a Councillor representing their Ward. As the Deputy Mayor represents a Ward, it is agreed that they be allocated a seat on the floor of the Council Chamber. In support of this Notice of Motion, a recommendation from the 2001 Strategic Review into the City of Wanneroo was that the Deputy Mayor be allocated a seat on the floor of the Chamber with their fellow Ward representative.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Kimber, SECONDED Cr Baker that Council AGREES that:

- 1 the seat to the right of the Mayor within the Council Chamber shall remain available for seating of special guests, at the invitation of the Mayor;**
- 2 the Deputy Mayor shall be allocated a seat on the floor of the Council Chamber next to their fellow ward representative.**

Discussion ensued.

The Motion was Put and

CARRIED (8/7)

In favour of the Motion: Crs Baker, Brewer, Gollant, Kenworthy, Kimber, Mackintosh, Prospero and Rowlands **Against the Motion:** Mayor Carlos, Crs Caiacob, Hart, Hollywood, Nixon, O'Brien and Walker

C167-09/03 **NOTICE OF MOTION – CR C BAKER – TRAINING IN MEETING PROCEDURE**

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr C Baker gave notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

“That in view of the appalling manner in which Mayor Carlos chaired the Ordinary Council Meeting on Tuesday 8 July 2003, the Mayor be stood down from chairing all future Ordinary Council meetings until such time as he has had the benefit of tuition in respect of his role as a chairperson by either an Officer of the Director General of Local Government or a representative from the Local Government Association.”

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

Reason for motion:

Cr Baker has provided the following comment in support of his motion:

“I have served as a Councillor under three different Mayors in two different Local Government Authorities. I have also served under a Premier as a Member of Parliament and I have acted as a Deputy Speaker for the Legislative Assembly of the Parliament of Western Australia for four years. I am concerned that the Mayor needs help in understanding the duties of a chairman at Council meetings, together with the provisions of the Local Government Act and our City’s Standing Orders Local Law.

We, as Councillors have a duty to help our Mayor in order to assist him in fulfilling his fundamental responsibilities as a chairperson. The fundamental duties of a Mayor under the Local Government Act are to chair Council meetings and liaise with the CEO. The Mayor is currently failing to meet both of these fundamental statutory obligations by any standard.”

OFFICER’S COMMENT

Section 2.8 and 5.6(1) of the Local Government Act 1995 states that part of the role of the Mayor is to preside at meetings in accordance with the Act. Section 5.6(2) of the Act allows for the Deputy Mayor to preside at meetings of the Council, where the Mayor is not available or is unable or unwilling to preside. Section 5.6(3) further states if the Deputy Mayor is not available, unable or unwilling to preside, then the Council is to choose one of the Councillors present to preside at the meeting.

In order for the Mayor to no longer preside at Council meetings, he would have to be either not available, unable or unwilling to do so. If this was to occur, then the responsibility would rest with the Deputy Mayor, and so on as specified by the Act. The Act does not allow for anyone else, other than a member of the Council to preside at Council meetings.

It is suggested that given the stipulations provided by the Local Government Act 1995, the Council may not have authority to make such a decision and it may be reasonable for the Chairperson to rule the Notice of Motion out of order as it is beyond the jurisdiction of the Council, in accordance with Clause 3.12 of the Standing Orders Local Law.

VOTING REQUIREMENTS

Simple Majority

Mayor Carlos ruled the Motion **OUT OF ORDER**

C168-08/03 NOTICE OF MOTION – CR J HOLLYWOOD – ELECTORAL MATERIAL

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr J Hollywood gave notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

“That the Council REQUESTS the Minister for Local Government and Regional Development to initiate an amendment to section 4.87 of the Local Government 1995 that requires any person that prints, publishes or causes electoral material to be printed, published or distributed, must have the electoral material authorised by the returning officer of their electorate.”

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

OFFICER’S COMMENT

Section 4.87 of the Local Government Act 1995 states:

“Printing and publication of electoral material:

4.87

- (1) A person who prints, publishes or distributes electoral material or causes electoral material to be printed, published or distributed commits an offence unless:
 - (a) the name and address (not being a post-office box) of the person who authorised the electoral material appears at the end of the electoral material; or
 - (b) in the case of electoral material that is printed otherwise than in a newspaper, the name and business address of the printer appears at the end of the electoral material.

Penalty: \$2,000.

- (2) Subsection (1) does not apply to electoral material on an item included in a prescribed class of items.

(3) In this section:

“electoral material” means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result of an election but does not include an advertisement in a newspaper announcing the holding of a meeting;

“print” includes photocopy or reproduce by any means.”

Section 4.88 of the Local Government Act 1995 states:

“Misleading, false or defamatory statements:

4.88

(1) A person who, during the relevant period in relation to an election:

- (a) prints, publishes or distributes deceptive material or causes deceptive material to be printed, published or distributed; or
- (b) makes or publishes any false or defamatory statement in relation to the personal character or conduct of a candidate in the election or causes such a statement to be made or published,

commits an offence.

Penalty: \$5,000 or imprisonment for one year.

(2) It is a defence to a charge under subsection (1)(a) to prove that the accused person did not know, and could not reasonably have been expected to know, that the material was likely to mislead or deceive an elector in relation to the casting of the elector’s vote.

(3) It is a defence to a charge under subsection (1)(b) to prove that the accused person believed the statement to be true and had reasonable grounds for doing so.

(4) In this section:

“deceptive material” means any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the elector’s vote at the election;

“print” includes photocopy or reproduce by any means;

“publish” includes publish by radio or television;

“relevant period” means the period commencing when notice calling for nominations for the election is published and ending at 6.pm on the election day.”

The recent local government elections for the City resulted in a number of complaints being received by the Electoral Commissioner regarding alleged breaches of Section 4.87 and 4.88 of the Local Government Act 1995. However, it is not known if any prosecutions have occurred as a result of the complaints.

The Act allows for any person to ‘authorise’ electoral material. If the legislation was to require a specific person to formally ‘authorise’ the electoral material, it may reduce the number of complaints. However, at the time of authorising the material the specific person may not be aware of the accuracy of the material and place the person in an awkward position.

VOTING REQUIREMENT

Simple Majority

MOVED Cr Hollywood, SECONDED Cr Nixon that Council REQUESTS the Minister for Local Government and Regional Development to initiate an amendment to section 4.87 of the Local Government 1995 that requires any person that prints, publishes or causes electoral material to be printed, published or distributed, must have the electoral material authorised by the returning officer of their electorate.

Discussion ensued.

During discussion, Cr Kenworthy left the Chamber at 2238 hrs and returned at 2240 hrs.

MOVED Cr Kimber, SECONDED Cr Rowlands that Motion BE NOW PUT.

The Procedural Motion was Put and

CARRIED (14/1)

In favour of the Procedural Motion: Mayor Carlos, Crs Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O’Brien, Prospero, Rowlands and Walker **Against the Procedural Motion:** Cr Baker

The Motion as Moved by Cr Hollywood, Seconded by Cr Nixon was Put and

LOST (4/11)

In favour of the Motion: Mayor Carlos, Crs Hollywood, Nixon and Walker **Against the Motion:** Crs Baker, Brewer, Caiacob, Gollant, Hart, Kenworthy, Kimber, Mackintosh, O’Brien, Prospero and Rowlands

C169-08/03

NOTICE OF MOTION – CR G KENWORTHY – ELECTRONIC RECORDING OF PROCEEDINGS

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr G Kenworthy gave notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

“That Council AMENDS Policy 2.2.6 – Council and Electors Meetings – Electronic Sound Recording – by adding a part (7) as follows:

- 7 The use of video cameras, electronic recording devices (other than for the express purpose of official minute taking) or still photography to record proceedings of the local government within the Council Chamber shall by a simple majority decision of the Council.”*

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

OFFICER'S COMMENT

There has been a few requests by the media to record the proceedings of the Council. There is no current policy of the Council, nor does the current Standing Orders Local Law detail any procedure on who can grant such authority. Consequently there needs to be a guideline that sets down the practice to follow when such requests are received. An amendment to the policy is suggested as the most appropriate means to achieve this.

It should be noted that if the power to determine such requests rests with the Council, such decision cannot be exercised until after the completion of public question time in accordance with the Local Government (Administration) Regulations 1996, Regulation 7(2).

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Kenworthy, SECONDED Cr Kimber that Council AMENDS Policy 2.2.6 – Council and Electors Meetings – Electronic Sound Recording – by adding a part (7) as follows:

- 7 The use of video cameras, electronic recording devices (other than for the express purpose of official minute taking) or still photography to record proceedings of the local government within the Council Chamber shall by a simple majority decision of the Council.**

Discussion ensued.

MOVED Cr Rowlands, SECONDED Cr Gollant that Motion BE NOW PUT.

The Procedural Motion was Put and

LOST (7/8)

In favour of the Procedural Motion: Mayor Carlos, Crs Caiacob, Gollant, Kenworthy, Mackintosh, O'Brien and Rowlands **Against the Procedural Motion:** Crs Baker, Brewer, Hart, Hollywood, Kimber, Nixon, Prospero and Walker

Discussion resumed.

Mayor Carlos requested Cr Hart to withdraw inappropriate terminology she had used. Cr Hart withdrew the use of the word "faction".

MOVED Cr Gollant, SECONDED Cr Rowlands that Motion BE NOW PUT.

The Procedural Motion was Put and

CARRIED (14/1)

In favour of the Motion: Mayor Carlos, Crs Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker **Against the Motion:** Cr Baker

**The Motion as Moved by Cr Kenworthy, Seconded by Cr Kimber was Put and
CARRIED (9/6)**

In favour of the Motion: Crs Baker, Brewer, Gollant, Kenworthy, Kimber, Mackintosh, O'Brien, Prospero, and Rowlands **Against the Motion:** Mayor Carlos, Crs Caiacob, Hart, Hollywood, Nixon and Walker

**C170-08/03 NOTICE OF MOTION – CR M O'BRIEN – MINIMUM RATE
PAYMENT**

Cr O'Brien has given notice of his intention to move the following motion at the Council Meeting to be held on Tuesday 19 August 2003. The following Elected Members have indicated their support as required by Clause 4.4. of Local Law S5: Standing Orders;

Cr O'Brien JP
Cr Hart
Cr Caiacob
Cr Walker
Cr Hollywood JP
Mayor Carlos

"That Council:

- 1 *RESCINDS AND REVOKES BY AN ABSOLUTE MAJORITY its decisions of 8 July 2003 as follows:*

"That Council:

- 1 *RESCINDS its decision of 24 June 2003 by deleting clause (1) as follows:*

"1 does not impose a general minimum payment for the 2003/04 year."

- 2 *AGREES to impose a minimum rate for the 2003/04 year."*

AND REPLACES IT WITH -

- 1 *AGREES that a most comprehensive community consultation occurred, in may 2001, in the form of a municipal referendum, whereby the electors of the City of Joondalup, by rejecting a \$27.00 flat tax, imposed by the Commissioners, rejected the principle of a flat tax;*
- 2 *AGREES that low value property valuations, as set by the Valuer General should not be taxed above the amount their valuations attract using the multiplicand, as the value, set by the Valuer General;*

- 3 *AGREES to impose only a proportional tax on properties in the City of Joondalup, as a multiplier being a rate in the dollar, based and multiplied by the Valuer Generals gross rental valuation as the multiplicand for each property for the 2003/2004 year;*
- 4 *AGREES, that if this motion is defeated and a minimum payment is imposed, that, in the interest of open and accountable government, rate notices for the 2003/2004 year shall identify on each rate bill, the valuation (as the multiplicand) times the rate in the dollar (as the multiplier) and its calculated amount (the product), in one line and any amount of flat tax, that is attached, shall be separately identified, in another line, thereby showing as a sub-total any such addition of the two, as a minimum payment in a separate line, on the rate bill, in similar manner to the identification of the FESA tax.*

The reasons for the notice of motion are;

- (a) the previous decision of Council on Tuesday 8 July 2003 (Item C123-07/03 refers) has doubtful validity and is possibly ultra vires, due to expressed opinion, that there is no power, in the provisions of the Local Government Act 1995 to impose a “minimum rate”;
- (b) the imposition of any form of Flat Tax, is highly immoral as it does not treat properties according to their value;
- (c) there are no “identifiable, measurable services” that are exposed that could warrant such a discriminatory charge on the properties affected;
- (d) there are no specified services that are supplied to the affected properties;
- (e) there has been no “community consultation” other than the 2001 referendum that establishes community acceptance of the “Overtaxing of the Affected Properties” in fact; there has been demonstrable rejection of the “flat taxing” principle by the Electors.

OFFICER’S COMMENTS

Previous officer’s comment has been provided on this notice of motion in a memorandum dated 1 August 2003.

The proposed notice of motion was received prior to the special meeting had been convened for 5 August 2003 to consider the 2003/2004 budget papers.

As a result of this series of events, legal advice was sought which is summarised as follows:

“Each local government must prepare and adopt in the prescribed form and manner, a budget for its municipal fund for the financial year. This must be done not later than 31 August in each financial year. See section 6.2(1).

The annual budget must incorporate various estimates including the amount it is estimated will be yielded by the general rate. See section 6.2(4)(b)(i).

When adopting the annual budget, a local government, in order to make up the budget deficiency, must impose a general rate on rateable land either uniformly or differentially. See section 6.32(1). When doing so, the local government may impose a minimum payment. See section 6.32(1)(b)(ii). An absolute majority is required. Section 6.35 deals with the setting of the amount of the minimum payment.

It is important to note that the Act envisages that the decisions required to impose uniform or differential rates, to impose specified area rates and minimum payments and to impose service charges, involving as they do important sources of revenue to meet the budget deficiency, must be made by a Council when it adopts the annual budget.

It is clear that the Council is empowered to impose a minimum payment but must only do so “when adopting the annual budget”.

It is not open to the Council to make a decision to impose, or not to impose, a minimum payment at some other time and independently of consideration of the annual budget. This is because the decisions to impose rates, minimum payments and so on, will determine the revenue necessary to make up the deficiency disclosed in the annual budget.

It was not open to the Council to decide to impose a minimum rate at its meeting on 8 July 2003 prior to its consideration of the annual budget. For this reason, the Council’s decision is of no effect that that is would be open to the Council, when it considers the adoption of the annual budget at its meeting on 5 August 2003 to impose a minimum payment, or, in the exercise of its discretion, not to do so. The Council would not be bound by its earlier decision.

The rescission motion would be superfluous given that it seeks to rescind a decision which can have no binding effect on the Council.

If the Council were to adopt the annual budget on 5 August 2003 and to impose a minimum payment then this decision would not be affected in any way by a later decision by the Council to rescind the decision on 8 July.”

The Council adopted its budget at its special meeting held on 5 August 2003 and the 2003/2004 budget has been implemented.

This notice of motion to rescind that has been given would, if passed, have no effect. The notice seeks to revoke an earlier decision to impose a minimum rate, which was outside the adoption process of the budget.

In the time from submitting the notice, the Council has adopted the budget and, in doing so, has imposed a minimum payment.

Cr O’Brien has indicated that he intends to withdraw the notice of motion at the meeting to be held on 19 August 2003.

Cr O’Brien advised that he wished the Notice of Motion to be **WITHDRAWN**

Cr A NIXON
Cr J F HOLLYWOOD, JP
Cr A WALKER
Cr P ROWLANDS
Cr S HART
Cr M O'BRIEN, JP
Cr G KENWORTHY
Cr M CAIACOB

C173-08/03 **CONFIDENTIAL - MOTION TO LIE ON THE TABLE – NOTICE OF MOTION – CR P ROWLANDS – MATTERS RELATING TO THE CHIEF EXECUTIVE OFFICER**

At the Council meeting held on 27 May 2003 the following motion was moved in relation to Item C87-05/03:

MOVED Cr Kimber, SECONDED Cr Rowlands, that in accordance with Clause 5.4 of the City's Standing Orders Local Law, the Confidential Item – Notice of Motion – Cr P Rowlands – Matters Relating to the Chief Executive Officer - Lie on the Table.

The Motion to Lie on the Table was Put and CARRIED (10/4)

In favour of the Motion: Mayor Carlos, Crs Caiacob, Gallant, Kenworthy, Rowlands, Hollywood, Nixon, Brewer, Kimber and Prospero. Against the Motion: Crs Baker, Hart, O'Brien and Walker.

Standing Orders Local Law, Clause 5.4 – The Motion Lie on the Table:

Clause 5.4 states:

If a motion that the motion lie on the table is carried debate on that motion shall not be resumed until a motion has been passed to take the motion from the table.

On a motion for the laying of the motion on the table being carried, a record shall be taken of all those who have spoken on the motion under debate and they shall not be permitted to speak on any resumption of the debate on that motion, but this does not deprive the mover of the motion of the right of reply.

(Note: The Minutes of the Council meeting held on 27 May 2003 recorded that no member spoke on the Notice of Motion submitted by Cr Rowlands)

Any motion that was subject to a resolution that the motion lie on the table and not dealt with subsequently at the same meeting, shall be included in the agenda for the next ordinary meeting.

A member moving the taking of the motion from the table shall be entitled to speak first upon the resumption of the debate thereon.

Prior to any debate occurring on this item, a motion is required to be carried to take the motion from the table.

The Notice of Motion submitted by Cr Rowlands was Marked Confidential - Not For Publication

A full report has been provided to Elected Members under separate cover.

Cr Mackintosh entered the Chamber, the time being 2319 hrs.

Cr Kenworthy left the Chamber at 2319 hrs and returned at 2320 hrs.

Cr Gollant entered the Chamber, the time being 2320 hrs.

MOVED Cr Rowlands, SECONDED Cr Prospero that the Motion be TAKEN FROM THE TABLE.

The Motion was Put and

CARRIED (14/1)

In favour of the Motion: Mayor Carlos, Crs Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker **Against the Motion:** Cr Baker

Cr Rowlands advised that he wished the Notice of Motion to be **WITHDRAWN**

C174-08/03

**CONFIDENTIAL - NOTICE OF MOTION – CR G KENWORTHY
- POTENTIAL BREACH OF STANDING ORDERS, CODE OF
CONDUCT AND THE LOCAL GOVERNMENT ACT 1995, CR J
HOLLYWOOD - [38535] [53558] [02154] [08122] [42750]**

Cr Gerry Kenworthy gave notice of his intention to move a motion at the ordinary meeting of the Council to be held on 27 May 2003. The following elected members indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr G Kenworthy
Cr C Baker
Cr P Rowlands
Cr C Mackintosh
Cr P Kimber
Cr A Patterson

At the Council meeting held on 27 May 2003 it was resolved that the Motion Lie on the Table.

The Minutes of the Council meeting held on 27 May 2003 recorded that no member spoke on the Notice of Motion submitted by Cr Kenworthy.

At the Council meeting held on 8 July 2003, it was resolved that the Motion be taken from the table, however the motion was not moved.

At its meeting on 29 July 2003 Council resolved to defer consideration of this item to the Council meeting to be held on 19 August 2003.

The Notice of Motion submitted by Cr Kenworthy was Marked Confidential - Not For Publication

A full report has been provided to Elected Members under separate cover.

Call for Support of one-third of members of the Council

The Mayor called for support from one-third of the members of Council. Support for this Item was given by Crs Kenworthy, Baker, Rowlands, Mackintosh and Kimber.

**NOTE: Page 104 of these Minutes has been edited to
remove items which are
Confidential – Not for Publication**

MOVED Cr Walker, SECONDED Cr Baker that members of the staff now leave the Chamber, with the exception of Mr Clayton Higham, Director Planning and Community Development, Mr Peter Schneider, Director Corporate Services and Resource Management, Mr Kevin Robinson, Manager Audit and Executive Services and the Minute Clerk.

The Motion was Put and

CARRIED UNANIMOUSLY (15/0)

In favour of the Motion: Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Prospero, Rowlands and Walker

Chief Executive Officer declared a financial interest in C174-08/03 – Notice of Motion No 2 – Cr A Walker – Reimbursement of Legal Expenses – Chief Executive Officer as the matter impacts on his contract of employment/matters pertaining to CEO's employment.

Members of staff, with the exception of Mr Clayton Higham, Director Planning and Community Development, Mr Peter Schneider, Director Corporate Services and Resource Management, Mr Kevin Robinson, Manager Audit and Executive Services and the Minute Clerk, left the Chamber at this point, the time being 2358 hrs.

C175-08/03

CONFIDENTIAL - NOTICE OF MOTION – CR A WALKER – REIMBURSEMENT OF LEGAL EXPENSES – CHIEF EXECUTIVE OFFICE

Cr Allison Walker has given notice of her intention to move a motion at the ordinary meeting of the Council to be held on 19 August 2003. The following elected members have indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr Allison Walker
Cr John Hollywood
Cr Sue Hart
Cr Michael Caiacob
Mayor Don Carlos

This Item Is Confidential - Not For Publication

A full report has been provided to Elected Members under separate cover.

Call for Support of one-third of members of the Council

Mayor Carlos called for the support of five elected members in relation to this Motion. Support for this Motion was indicated by a show of hands.

**NOTE: Page 106 of these Minutes has been edited to
remove items which are
Confidential – Not for Publication**

C176-08/03 MEETING TO GO TO OPEN DOORS

MOVED Cr O'Brien, SECONDED Cr Baker that the Meeting be now held with open doors, the time being 0010 hrs.

The Motion was Put and

CARRIED

The Chief Executive Officer, members of the Executive and staff, members of the public and press entered the Chamber at this point, the time being 0010 hrs. In accordance with the City's Standing Orders Local Law, Manager Marketing Communications and Council Support and Manager Audit and Executive Services advised that, in relation to the following:

C173-08/03 Confidential - Motion to Lie on the Table – Notice of Motion – Cr P Rowlands – Matters relating to the Chief Executive Officer – that this motion had been **Withdrawn**.

C174-08/03 Confidential - Notice of Motion – Cr G Kenworthy - Potential Breach of Standing Orders, Code of Conduct and the Local Government Act 1995, Cr J Hollywood – that this motion was **Lost**.

C175-08/03 Confidential - Notice of Motion – Cr A Walker – Reimbursement of Legal Expenses – Chief Executive Officer - that this motion was **Lost**.

Cr Rowlands left the Chamber, the time being 0012 hrs.

SECOND PUBLIC QUESTION TIME

Mr S Magyar, Heathridge:

Q1 Regarding the items that were behind closed doors, is it possible to have details as to what the motion was about without giving out any confidential information. What the motion was that was lost, why does it have to remain confidential?

A1 These matters relate to confidential matters as prescribed under Standing Orders and the Local Government Act and it would be fair to say that the intent of the motions put forward are contained within the title as detailed on the Agenda.

BON VOYAGE - MIKE SMITH

Mayor Carlos wished Mike Smith, Manager Marketing Communications and Council Support bon voyage for his 12 month exchange to the Town of Cochrane, Alberta.

DATE OF NEXT MEETING

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 9 SEPTEMBER 2003** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup

CLOSURE

There being no further business, the Chairman declared the Meeting closed at 0015 hrs; the following elected members being present at that time:

MAYOR D CARLOS
Cr L PROSPERO
Cr P KIMBER
Cr T BREWER
Cr C BAKER
Cr A NIXON
Cr J F HOLLYWOOD, JP
Cr A WALKER
Cr S HART
Cr M O'BRIEN
Cr J GOLLANT
Cr G KENWORTHY
Cr M CAIACOB
Cr C MACKINTOSH