



**MINUTES OF COUNCIL MEETING
HELD ON 2 DECEMBER 2003**

TABLE OF CONTENTS

No:	Item	Page
	OPEN AND WELCOME	1
C247-12/03	ELECTRONIC MEDIA IN THE CHAMBER	2
	PERSONAL EXPLANATION – CR HOLLYWOOD	3
	PUBLIC QUESTION TIME	3
	ADJOURNMENT OF MEETING	9
C248-12/03	EXTENSION OF QUESTION TIME – [01122]	11
C249-12/03	REQUEST FOR SECOND PUBLIC QUESTION TIME – [01122] [02154]	11
C250-12/03	MOTION IN RELATION TO SERIOUS DISORDER – [02154]	11
C251-12/03	SUSPENSION OF STANDING ORDERS LOCAL LAW – [02154] [08122] [01369]	11
C252-12/03	REQUEST TO MINISTER TO EXERCISE POWERS UNDER THE LOCAL GOVERNMENT ACT 1995	13
C253-12/03	SUSPENSION OF STANDING ORDERS LOCAL LAW – [02154] [08122] [01369]	18
	PERSONAL EXPLANATION – CR WALKER	19
C254-12/03	RESUMPTION OF STANDING ORDERS	19
	PERSONAL EXPLANATION – CR S HART	19

	APOLOGIES AND LEAVE OF ABSENCE	19
C255-12/03	REQUEST FOR LEAVE OF ABSENCE – CR A NIXON	20
	DECLARATION OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY	20
	CONFIRMATION OF MINUTES	
C256-12/03	MINUTES OF COUNCIL MEETING, 11 NOVEMBER 2003	22
C257-12/03	MINUTES OF SPECIAL COUNCIL MEETINGS, 9 AND 17 NOVEMBER 2003	23
	ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION	
	BIKERS CHARITY RIDE	23
	SORRENTO QUAY CHRISTMAS LIGHTS	24
C258-12/03	PETITIONS	
	PETITION IN RELATION TO CONTRACT OF EMPLOYMENT – MR DENIS SMITH – [70544]	24
	PETITION IN RELATION TO TRAFFIC ISSUES, MULLIGAN DRIVE, GREENWOOD – [14100] [35487] [35485].....	25
	REPORTS	
CJ267 - 12/03	PROPOSED CITY OF JOONDALUP STANDING ORDERS AMENDMENT LOCAL LAW 2003 – [25548] [08122] [76541] [05885] ..	25
CJ268 - 12/03	BUSINESS & COMMUNITY DIRECTORY PARTNERSHIP PROPOSAL – JOONDALUP BUSINESS ASSOCIATION – [03082].....	29
CJ269 - 12/03	WARRANT OF PAYMENTS – 31 OCTOBER 2003 – [09882]	34
CJ270 - 12/03	FINANCIAL REPORT FOR THE PERIOD ENDING 31 OCTOBER 2003 – [07882].....	36
CJ271 - 12/03	CORPORATE CREDIT CARDS – [18049] [59174].....	37
CJ272 - 12/03	LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) ACT 1995 - GRANT ALLOCATIONS – [04468] [42002]	39
CJ273 - 12/03	TENDER 004-03/04 – THE SUPPLY OF MOBILE GARBAGE BINS AND/OR THE PROVISION OF STORAGE, DELIVERY AND REPAIR OF MOBILE GARBAGE BINS – [57542]	44
CJ274 - 12/03	TENDER NUMBER 013-03/04 SUPPLY AND DELIVERY OF PRECAST STORMWATER DRAINAGE PIPES AND FITTINGS – [17548]	48
CJ275 - 12/03	TENDER NUMBER 014-03/04 – QUANTITY SURVEYOR CONSULTANCY SERVICES – [69548]	51
CJ276 - 12/03	TENDER NUMBER 017-03/04 SUPPLY AND DELIVERY OF DESKTOP AND NOTEBOOK COMPUTERS – [21550]	55
CJ277 - 12/03	METROPOLITAN REGIONAL ROAD PROGRAM 2003/2004 TO 2004/2005 – [06759] [06056]	59
CJ278 - 12/03	CLOSE OF ADVERTISING - AMENDMENT NO 17 TO DISTRICT PLANNING SCHEME NO 2 – LOCATION 13649 (52) MARRI ROAD, DUNCRAIG (REZONING FROM BUSINESS R20 TO RESIDENTIAL R40) – [29540] [41927]	63

CJ279 - 12/03	PROPOSED MIXED USE DEVELOPMENT (COMMERCIAL AND RESIDENTIAL UNITS) AT LOT 495 (167) GRAND BOULEVARD, CNR BOAS AVENUE, JOONDALUP – [37738].....	68
CJ280 - 12/03	ANNUAL LICENCE RENEWAL: MOBILE VENDING SERVICE – [56047].....	79
CJ281 - 12/03	APPLICATION FOR THE CLOSURE OF THE PEDESTRIAN ACCESSWAY BETWEEN BEN CLOSE AND EDDYSTONE AVENUE, CRAIGIE – [82540].....	85
CJ282 - 12/03	REQUEST FOR CLOSURE AND SUBSEQUENT PURCHASE OF A 40M ² PORTION OF LACEPEDE DRIVE (ROAD RESERVE) ADJOINING LOT 851 (68) LACEPEDE DRIVE, SORRENTO – [69416] [13030].....	92
CJ283 - 12/03	DELEGATED AUTHORITY REPORT FOR THE MONTH OF OCTOBER 2003 – [07032].....	97
CJ284 - 12/03	SUBDIVISION REFERRALS PROCESSED 1 - 31 OCTOBER 2003 – [05961].....	98
CJ285 - 12/03	COMMUNITY FUNDING PROGRAM 2003-2004 GRANTS ALLOCATIONS - FIRST FUNDING ROUND – [23542] [24542].....	101
CJ286- 12/03	MINUTES OF THE SENIORS INTERESTS ADVISORY COMMITTEE MEETING - WEDNESDAY, 15 OCTOBER 2003 – [55511].....	110
CJ287 - 12/03	WHEELED SPORTS COMMITTEE MINUTES – [09010].....	111
CJ288 - 12/03	MINUTES JOONDALUP EISTEDDFOD WORKING PARTY – 9 OCTOBER 2003 – [50027].....	112
CJ289 - 12/03	MINUTES JOONDALUP FESTIVAL AND SUMMER EVENTS COMMITTEE – 4 NOVEMBER 2003 – [78527].....	114
CJ290 - 12/03	MINUTES OF THE ART COLLECTION WORKING PARTY – 6 NOVEMBER 2003 – [14158].....	115

REPORT OF THE CHIEF EXECUTIVE OFFICER

CJ291 - 12/03	REQUEST FOR MAYOR'S INCOMING AND OUTGOING TELEPHONE ACCOUNTS FOR MOBILE, HOME, OFFICE AND FACSIMILE	118
---------------	---	-----

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

C259-12/03	NOTICE OF MOTION NO 1 – CR C BAKER – CITY OF JOONDALUP CHRISTMAS PARTY – 2004 AND THEREAFTER	118
C260-12//03	NOTICE OF MOTION NO 2 – CR C BAKER – CITY OF JOONDALUP CHRISTMAS PARTY – INVITED GUESTS	119
C261-12/03	NOTICE OF MOTION NO 3 – MAYOR D CARLOS – CHRISTMAS HAMPERS – GIFT TO ELECTED MEMBERS	120
C262-12/03	NOTICE OF MOTION NO 4 – CR L PROSPERO – USE OF CORPORATE CREDIT CARDS	122
C263-12/03	NOTICE OF MOTION NO 5– CR M O'BRIEN - LEAVE OF ABSENCE FOR MAYOR CARLOS	122

PERSONAL EXPLANATION – CR O'BRIEN

124

C264-12/03	NOTICE OF MOTION NO 7 – CR J GOLLANT – CODE OF CONDUCT – CENSURE	124
------------	--	-----

	ADJOURNMENT OF MEETING	127
C265-12/03	NOTICE OF MOTION NO 8 – CR C MACKINTOSH – GOVERNANCE OF THE CITY BY MAYOR CARLOS	127
C266-12/03	NOTICE OF MOTION NO 9 – CR P KIMBER – CENSURE OF ELECTED MEMBER	128
	PERSONAL EXPLANATION – CR HART	129
	PERSONAL EXPLANATION – CR GOLLANT	129
C267-12/03	MOTION TO GO BEHIND CLOSED DOORS – [02154] [08122]	130
C268-12/03	MEETING TO GO TO OPEN DOORS	134
C269-12/03	MEETING BE NOW CLOSED – [02154]	135
	OUTSTANDING ITEMS OF BUSINESS	135
ITEM 1	CONFIDENTIAL - NOTICE OF MOTION – CR J HOLLYWOOD - LEGAL ADVICE ON PUBLIC COMMENTS RELATING TO THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE, AND CHIEF EXECUTIVE OFFICER EMPLOYMENT RELATED MATTERS – [70544]	135
ITEM 2	CONFIDENTIAL - NOTICE OF MOTION – CR J HOLLYWOOD - STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE - LEGAL EXPENSES – [24549, 00561, 58527, 70544]	135
ITEM 3	CONFIDENTIAL – NOTICE OF MOTION – CR J HOLLYWOOD – REQUEST FOR VARIATION TO CHIEF EXECUTIVE OFFICER’S CONTRACT OF EMPLOYMENT	135
ITEM 4	CONFIDENTIAL - NOTICE OF MOTION – CR C BAKER - LEGAL ADVICE ON PUBLIC COMMENTS RELATING TO THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE, AND CHIEF EXECUTIVE OFFICER EMPLOYMENT RELATED MATTERS – [70544]	135
ITEM 5	CONFIDENTIAL - NOTICE OF MOTION – CR C BAKER - STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE - LEGAL EXPENSES – [24549, 00561, 58527, 70544]	135
ITEM 6	CONFIDENTIAL – NOTICE OF MOTION – CR C BAKER – REQUEST FOR VARIATION TO CHIEF EXECUTIVE OFFICER’S CONTRACT OF EMPLOYMENT	135
ITEM 7	CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS - REFUND OF CEO CORPORATE CREDIT CARD EXPENDITURE.....	135
ITEM 8	CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – COUNCIL CREDIT CARDS	136
ITEM 9	CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – TELEPHONE ACCOUNTS	136

ITEM 10	CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – INFORMATION ON CEO SALARY PACKAGE.....	136
ITEM 11	CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – SALARY PACKAGES – EXECUTIVE AND BUSINESS MANAGERS	136
ITEM 12	CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – EXPENDITURE BY FORMER MAYOR.....	136
ITEM 13	CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – STAFF SALARY INFORMATION.....	136
	NOTICE OF MOTION NO 6 – CR J GOLLANT – BREACH OF CODE OF CONDUCT	136
	NOTICE OF MOTION NO 10 – CR P KIMBER – BREACH OF CODE OF CONDUCT	136
	MOTION TO LIE ON THE TABLE NO 1 - 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)	136
	MOTION TO LIE ON THE TABLE NO 2 – MEDIA ACCESS TO MATTERS OF PUBLIC INTEREST	136
	DATE OF NEXT MEETING	136
	CLOSURE	136

CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP , ON TUESDAY, 2 DECEMBER 2003

OPEN AND WELCOME

The Mayor declared the meeting open at 1903 hrs.

ATTENDANCES

Mayor

D CARLOS *Absent from 2102 hrs to 2104 hrs*

Elected Members:

Cr P KIMBER	Lakeside Ward	
Cr L PROSPERO	Lakeside Ward	<i>Absent from 2220 hrs to 2222 hrs</i>
Cr C BAKER	Marina Ward	<i>Absent from 2120 hrs to 2128 hrs; from 2136 hrs to 2137 hrs; from 2142 hrs to 2143 hrs; 2154 hrs to 2157 hrs</i>
Cr T BREWER	Marina Ward	<i>Absent from 2136 hrs to 2137 hrs; 2140 hrs to 2141 hrs; 2144 hrs to 2145 hrs</i>
Cr A NIXON	North Coastal Ward	<i>Absent from 2155 hrs to 2158 hrs</i>
Cr J F HOLLYWOOD, JP	North Coastal Ward	<i>Absent from 2107 hrs to 2109 hrs</i>
Cr A WALKER	Pinnaroo Ward	<i>to 2240 hrs; Absent from 1904 hrs to 1911 hrs; from 2043 hrs to 2045 hrs; from 2155 hrs to 2156 hrs</i>
Cr S HART	South Ward	<i>Absent from 2059 hrs to 2100 hrs and from 2159 hrs to 2240 hrs</i>
Cr M O'BRIEN, JP	South Ward	<i>Absent from 2126 hrs to 2128 hrs; 2154 hrs to 2156 hrs</i>
Cr J GOLLANT	South Coastal Ward	<i>Absent from 1904 hrs to 1911 hrs; 2134 hrs to 2135 hrs;</i>
Cr M CAIACOB	Whitfords Ward	
Cr C MACKINTOSH	Whitfords Ward	

Officers:

Chief Executive Officer:	D SMITH	<i>Absent from 1950 hrs to 2106 hrs and from 2206 hrs to 2340 hrs</i>
Director, Corporate Services and Resource Management:	P SCHNEIDER	<i>Absent from 2258 hrs to 2340 hrs</i>
Director, Planning & Community Development:	C HIGHAM	<i>Absent from 2258 hrs to 2340 hrs</i>
Director, Infrastructure & Operations:	D DJULBIC	<i>Absent from 2258 hrs to 2340 hrs</i>
Manager Audit and Executive Services:	K ROBINSON	
Manager, Marketing Communications & Council Support:	B ROMANCHUK	<i>Absent from 2258 hrs to 2340 hrs</i>
Manager, Human Resources:	M LOADER	<i>from 1950 hrs</i>
Manager, Community Development:	G HALL	<i>Absent from 2258 hrs to 2340 hrs</i>
Manager, Approvals Planning & Environmental Services:	C TERELINCK	<i>to 2250 hrs</i>
Manager, Financial Services:	A SCOTT	<i>Absent from 2258 hrs to 2340 hrs</i>
Media Advisor:	L BRENNAN	<i>Absent from 2258 hrs to 2340 hrs</i>
Committee Clerk:	J HARRISON	
Minute Clerk:	L TAYLOR	<i>Absent from 2258 hrs to 2340 hrs</i>

There were 250 members of the Public and 4 members of the Press in attendance.

In Attendance

Mr Nick Manifis - Walman Software *Absent from 2258 hrs to 2340 hrs*

Mr Neil Douglas - Minter Ellison *from 1950 hrs*

Messrs Steve Cole, Cliff Frewing, Ian Mickel and Bruce Wittber – Governance Review Board

C247-12/03 ELECTRONIC MEDIA IN THE CHAMBER

MOVED Cr Hart, SECONDED Cr Hollywood that all electronic media and photographers be permitted to be present in the Chamber.

The Motion was Put and

CARRIED (6/5)

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

Crs Gollant and Walker left the Chamber at this point, the time being 1904 hrs.

PERSONAL EXPLANATION – CR HOLLYWOOD

In accordance with Clause 4.5 of the City’s Standing Orders Local Law, Cr Hollywood made the following personal explanation:

“Mr Mayor, in the Wanneroo Times and the Joondalup newspaper today, there is an article in there claiming I have received money wrongfully. Mr Mayor, when I became the Deputy Mayor I didn’t even know I was entitled to this money and I have never asked for this money. To say that I have wrongfully claimed for it is a total misrepresentation of my being Deputy Mayor. It also goes on to say that Cr Baker will be moving a motion tonight, but there is no motion here. I wonder how Stuart McKinnon got that motion. The only way he could get that was from Cr Baker. Mr Mayor, I believe this is an on-going attack on yourself and myself and the Councillors who support you in your cause. I believe Cr Baker will do anything to bring up dirty tricks and this is another case where he is doing so. He has got some other dirty tricks up his sleeve for Cr Hart tonight and Cr Walker knows all about Cr Baker’s dirty tricks over the years. Apart from that Mr Mayor, I have never ever received any money from this Council that I am not entitled to. If these funds were given to me wrongfully, it is the responsibility of the CEO and staff to make sure I am funded correctly the allowances I get. So I am asking the CEO to make sure all Councillors get any entitlements they receive lawfully and so every Councillor and ratepayer can see that it is above board. I think it is upon myself to move that Cr Nixon was not here last night because he had a previous commitment. He has a job with the hospital and he could not leave that position. I am asking Council and the ratepayers to accept Cr Nixon’s apology for last night for not being here. Cr Nixon is here tonight, he should be at the hospital, but he feels this meeting is so important that he has decided to come here tonight and he will not be paid for being here tonight.”

PUBLIC QUESTION TIME

The following question, submitted by Mr T Westall, Joondalup, was taken on notice at the Special Meeting of Council held on 9 November 2003:

Q1 Approximately how much of rates have been spent on this urgent meeting?

A1 Approximately \$3,000.

The following question, submitted by Mr K Zakrevsky, Mullaloo, was taken on notice at the Special Meeting of Council held on 9 November 2003:

Q1 How much has the solicitor cost for yet another legal opinion?

A1 The City is receiving advice from Minter Ellison on an on-going basis in connection with various matters. Minter Ellison is one of four legal firms engaged by the City as part of a panel contract. Partners at Minter Ellison charge \$385 per hour, plus GST.

The following question, submitted by Mr M Sideris, Mullaloo, was taken on notice at the Special Meeting of Council held on 9 November 2003:

Q1 What is the cost of tonight’s meeting?

A1 Approximately \$3,000.

The following question, submitted by Mr S Magyar, Heathridge, was taken on notice at the Special Meeting of Council held on 9 November 2003:

Q1 Item two of the purpose of the meeting. Is this conflict caused by the failure of the CEO to meet the requirements of the Local Government Act, Sections 5.41 and 5.41(b)? I refer to the recent report on the Ocean Reef Road extension and transfer of funds from Hodges Drive drainage reserve, and the requirements of Section 6.11. As the CEO is responsible for the content of reports put before Council why was there a gross failure to inform Council of its legal obligation to advertise the transfer of funds for one month?

A1 The utilisation of reserve funds is not inconsistent with the purpose for which the reserve was established, therefore there is no requirement to advertise.

The following question, submitted by Mr R Byfield, Ocean Reef, was taken on notice at the Meeting of Council held on 11 November 2003:

Q1 Re: Ocean Reef Extension – Can Council detail the ten most recent examples of precedent where reallocation of funds was not advertised because they were deemed not inconsistent with the purpose for which the reserve was established? The Ocean Reef Coastal Stakeholders will be making a written complaint to the Ombudsman and Western Australian Department of Local Government about Council's lack of adherence to WA Local Government rules. Can you comment on the lack of advertising or reallocation of funds please?

A1 The Local Government Act 1995 requires that where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish a reserve account for each such purpose.

A local government must also give one month's local public notice of a proposed change of purpose or proposed use where the change of purpose or of proposed use has not been disclosed in the annual budget.

There has been no reallocation of funds for a proposed change of purpose or proposed use therefore there has been no requirement for advertising in accordance with Section 6.11 of the Local Government Act 1995.

The following question, submitted by Mr M Murrigan, Ocean Reef, was taken on notice at the Meeting of Council held on 11 November 2003:

Q1 Re: Ocean Reef Road – A previous question asked: “Is Council aware that under the State Government Records Act Council is required to keep accurate records of comments by ratepayers for and against any proposal such as this?” Council answered: “Yes in accordance with the Statement Government Records Act 2000.”

Can each Councillor and the City itself furnish an updated and complete log of each person who has been canvassed for and against the road and what we would like is dates, names, street names and the context in which the question was asked e.g., the road was for a new marina, and we also want to know about the person's reply.

- A1 This City currently complies with the State Records Act 2000, with requests for information and/or documents being processed as per the Freedom of Information Act 1994.

The Freedom of Information Act allows a general right of access to local government documents and also enables the public to participate more effectively in governing the State. It also requires the protection of third parties and matter can be exempt if its disclosure would reveal personal information about an individual. Any correspondence to and from individuals may be released but the names, addresses and any identifying information would be removed.

The City would not know of any canvassing made by Councillors unless the Councillor provided this information. The WA Local Government Association was successful in lobbying the Minister for Culture and the Arts to exempt Councillors from the requirement to keep records outside of the Council environment, with records only being required in meetings of Council and committees of Council and communications outside Council and committee meetings now being exempt.

The Freedom of Information Coordinator can be contacted on 9400 4584 for information on making an application.

The following question, submitted by Mr A Bryant, Craigie, was taken on notice at the Meeting of Council held on 11 November 2003:

- Q1 Congratulations to the Council in renewing the kerbing in Stocker Court, Craigie, however both my properties had roadside numbers painted on them. Yesterday I had a call from two workers in appropriate reflective work jackets asking if I wanted my street number painted on the kerb again for the sum of \$10 which I did not accept. Am I correct in assuming that the workers were from the City of Joondalup and the Council would get the \$10?*

- A1 No. Where the City has undertaken road works resulting in loss of the resident's property number on the kerb, the City will undertake replacement of the number at completion of the works. Information provided to residents prior to works commencing clearly states that the City will replace the kerb number if it exists at commencement of the works.

Any offers to provide low priced kerb numbering would more than likely have come from private suppliers.

The following questions, submitted by Mr S Magyar, Heathridge, were taken on notice at the Meeting of Council held on 11 November 2003:

- Q1 Re: Enforcement of Parking Laws by the City of Joondalup – Can I have some idea as to how many infringement notices Council issues to people who illegally park as opposed to how many warnings they issue and do the Rangers have any system where they monitor to make sure that they are not giving warnings to repeat offenders who should be booked?*

A1 As an example, from 1 July 2003 to 24 November 2003 -

613 Parking Cautions were issued
251 Parking Infringements were issued

Once a caution has been issued, it is recorded and if a further caution is issued for the same offence within a 2 year period, it is upgraded to an infringement notice.

Q2 Re: Employment Contract of CEO - Are there performance criteria currently in the contract, if so, how many and what sort of issues do they cover?

A2 There are a number of indicators including: Leadership, Managing Strategic Partnerships, Policy and Legislation, Statutory Requirements, Operational Management, HR Management, Financial Management, Corporate Planning, Public Relations and Customer Care and Communication.

The following question, submitted by Mr D Squire, Ocean Reef, was taken on notice at the Meeting of Council held on 11 November 2003:

Q1 Re: CJ264-11/03 – Regarding the proposed installation of telecommunication facility at Flinders Avenue, Hillarys. Can Council advise if Hutchison has investigated co-location of the proposed Flinders Street facility with the existing tower in Hillarys Beach carpark opposite the Ern Halliday Camp? If Hutchison's have investigated co-location on this site what are the reasons for not utilising the above-mentioned existing facility?

A1 In relation to the proposed installation of a telecommunication facility on the Hillarys Shopping Centre, Hutchison Telecoms has verbally informed the City that co-location of the facility was considered prior to the decision being made to locate the low impact facility at the Hillarys Shopping Centre (locations included the Ern Halliday Camp site).

The co-location of the proposed facility with an existing facility was not possible due to the following reasons:

- 1 Existing towers within the area are overloaded;
- 2 The Ern Halliday Camp site has too many trees which will impact on the coverage; and
- 3 The location of other facilities would not provide adequate coverage.

Crs Gollant and Walker entered the Chamber at this point, the time being 1911 hrs.

The following question was submitted by Mr Ron Chamberlain, Connolly:

Q1 There were a number of questions asked at the AGM of Electors held on Monday 17 November 2003. Under Section 5.32 these should be answered:

- (a) at the first ordinary Council meeting after that date, or*
- (b) at a Special Council meeting called for that purpose.*

As these have not been addressed in the 2 December 2003 meeting, please advise when the Special Council meeting called for that purpose will be held.

A1 The relevant section of the Local Government Act 1995 is Section 5.33 which states:

“5.33(1) All decisions made at an electors’ meeting are to be considered at the next ordinary council meeting or, if that is not practicable:

- (a) at the first ordinary Council meeting after that meeting, or*
- (b) at a special meeting called for that purpose,*

whichever happens first.”

Due to the number of items raised at the AGM of Electors, it was not practicable to finalise the minutes and submit a report to the Council meeting on 2 December 2003. It is proposed that a report be submitted to the following Council meeting scheduled for 16 December 2003. This complies with legislation.

Mr Noal Gannon, Sorrento:

Q1 Re: CEO matters – On numerous occasions this Council and the CEO have requested legal advice from Minter Ellison and Blake Dawson Waldron respectively. How was this advice requested, orally or in writing? If orally who made the request?

Q2 How was the advice received, orally or in writing? If orally who received the advice? If written were all or any Councillors given a copy?

Q3 Have Minter Ellison or Blake Dawson Waldron submitted accounts for payment for advice and attendance previously given to Council or the CEO on this matter?

Q4 Have any of the accounts been paid by Council or has any reimbursement been given to the CEO in the event he may have paid some accounts himself?

Q1-4 These questions will be taken on notice.

Mr E Ellery, Woodvale:

Q1 I would like to read two small paragraphs out of Community News from 20 November 2003 regarding the Parliamentary Committee Hearings, Neil Douglas was quoted as saying:

“Academic qualifications were not crucial in the appointment of the Chief Executive and there was no questioning of any candidates qualifications at any stage of the selection process, however, member Dean Margetts noted that a brief summary of Mr Smith’s by Management Recruiters Australia had stated he had excellent qualifications.”

It is quite apparent that Neil Douglas was trying to gild the lily before the Committee, if that was the case, how much gilding has he done behind closed doors?

A1 No response was provided.

Ms M Moon, Greenwood:

Q1 Were the police contacted this afternoon to clear the gallery or was there any liaison with the CEO with the police to clear the gallery this evening?

A1 Yes.

Q2 Why hasn't this fiasco been dealt with instead having a ring of silence put round the CEO, banning questions and banning answers and banning any accountability at all? Why hasn't it been dealt with, it has been nearly 18 months?

A2 No response was provided.

Mr K Zakrevsky, Mullaloo:

Re: Wanneroo Times – Article “Hollywood happy to pay back allowance”

Q1 Is not the prescribed monthly allowance paid to all Councillors including the Mayor and Deputy laid down in Section 5.98 and the Admin Regulations, which have been voted on and passed by Council, a simple procedural matter under the control of the CEO and the Administration?

A1 *Response by Mayor Carlos:* Yes, that is correct.

Q2 Isn't Cr Baker's intended motion as released to the Wanneroo Times: “to seek legal advice about the alleged misappropriation of funds” fallacious and without foundation?

A2 *Response by Mayor Carlos:* Yes again to that question.

Q3 Surely, Cr Hollywood and the ratepayers are entitled to a full retraction, and unqualified apology, right here and now and with an advertisement in the community paper?

A3 This question will be taken on notice.

Mr V Cusack, President of the South Ward Ratepayers and Electors Association

Q1 Does any Councillor here know how much of ratepayers' money Mr Smith has spent on his corporate credit card?

A1 The question was directed to the Councillors. The exact figures are not able to be provided tonight.

ADJOURNMENT OF MEETING

In accordance with Clause 4.7 of the City's Standing Orders Local Law, the Mayor adjourned the meeting for a period of fifteen (15) minutes, the time being 1919 hrs.

The Meeting **RESUMED** at 1928 hrs, with the following members being present:

MAYOR D CARLOS
Cr L PROSPERO
Cr P KIMBER
Cr T BREWER
Cr C BAKER
Cr J F HOLLYWOOD, JP
Cr A NIXON
Cr A WALKER
Cr S HART
Cr M O'BRIEN
Cr J GOLLANT
Cr C MACKINTOSH
Cr M CAIACOB

Statement by Mayor Carlos

Mayor Carlos advised the members of the public present that should there be a continuous disruption to the meeting, he had the power to close the meeting however he preferred to conduct the business listed on the agenda.

Q2 Mindful of the relevant sections of the Local Government Act dealing with liability for misapplication of ratepayer funds and associated penalties, will this Council immediately move to establish and verify all expenditure on the CEO's corporate credit card before any thought of termination payment?

A2 There is a report on the Agenda tonight that recommends that all corporate credit cards be the subject of an audit and that they would reported through to the Audit Committee.

Mr A Bryant, Craigie:

Q1 Re: Page 5 of the Warrant of Payments – Cheque No. 59627 – 30 October 2003 - \$170,838.21 – Dale Alcock Homes – May I ask for what this was made?

A1 Kingsley Football Club Memorial Clubrooms.

Q2 I refer to my question asked on 11 November 2003 as to kerbside numbers removed when new kerbing was installed. Thank you for the answer that Council would immediately replace the numbers. I now ask that the number for my property be replaced as soon as possible as I am one of the local Justices of Peace and it would assist people looking for my services to locate my property.

A2 The matter has been discussed with the relevant Business Unit Manager and it is understood that action is in place to replace that number.

Mr M Sideris, Mullaloo:

Q1 I would like an explanation as to why the CEO has refused the Mayor access to the Corporate Card details and why the corporate card details have not been placed on the Warrant of Payments. The question refers to Section 6.5 of the Act which talks about accounts and records and it is the CEO's responsibility:

- (a) to ensure that they are kept in accordance with the regulations, proper accounts and records of the transactions and the affairs of Local Government;*
- (b) to keep the accounts and records up to date and ready for inspection at any time by persons authorised to do so under this Act or any other written law.*

One clause of the CEO's contract says that those records must be made available to the Mayor, and my understanding is that the Mayor has received three legal opinions to the contrary.

A1 The question of credit cards and access to credit cards is the subject of a number of reports which will be submitted to Council tonight and they will be the subject of Council's deliberations.

Q2 Is it true that the Counsel, Neil Douglas of Minter Ellison, was in the dining room with the other seven Councillors and left at the same time we all went outside for coffee and departed this building around about 9.30 with Crs Gollant, Brewer and Prospero? Did we pay for legal advice while he was with those seven Councillors and did he give advice to the City during that period?

A2 Mr Douglas did attend the meal that the Council provided and Mr Douglas also briefed a number of the Elected Members pertaining to matters of Queen's Counsel advice that he has received. The same offer was also extended to other Elected Members today.

Mr R de Gruchy, Sorrento:

Re: Employment Contract of the CEO, Mr Denis Smith – On the front page of the Wanneroo Times dated 18 November 2003, there is a reference to the CEO having 3 years of his current contract left to run with the option of another 5-year contract.

Q1 If this is true, who made the decision to allow such a generous contract?

Q2 Does the option of a second 5-year term allow the City to reject a request for an extension or is it purely one-sided (i.e., is it really a 10 year contract if the CEO decides he wishes to stay)?

Q3 Is this regarded as the 'norm' in employing senior executives in Local Government, as I understand that the previous CEO, Mr Lindsay Delahaunty did not have a similar condition attached to his contract?

A1-3 These questions will be taken on notice.

C248-12/03 EXTENSION OF QUESTION TIME – [01122]

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

The Motion was Put and

LOST (5/8)

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

C249-12/03 REQUEST FOR SECOND PUBLIC QUESTION TIME – [01122 02154]

MOVED Cr O'Brien, SECONDED Cr Baker 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

C250-12/03 MOTION IN RELATION TO SERIOUS DISORDER – [02154]

MOVED Cr Kimber, SECONDED Cr Baker that in accordance with Clause 8.1 of the City's Standing Orders Local Law the Council suspends Clause 4.7 of the Standing Orders Local Law relating to serious disorder, to ensure all business is transacted at this evening's meeting.

Discussion ensued, with Manager Audit and Executive Services reading aloud Clause 4.7 for the benefit of the meeting.

The Motion was Put and

CARRIED (8/5)

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

C251-12/03 SUSPENSION OF STANDING ORDERS LOCAL LAW – [02154] [08122] [01369]

MOVED Cr Baker, SECONDED Cr Nixon that in accordance with Clause 8.1 of the City's Standing Orders Local Law, as a case of urgent necessity, Clause 3.12 of the City's Standing Orders Local Law, which requires seven (7) days' prior notice in writing for a notice of motion, **BE SUSPENDED** in order to consider the following motion:

“That the Council:

- 1 NOTES that the Minister has informed the Council that unless it 'has achieved a satisfactory resolution of the underlying issues at the City' by 4 December 2003, the Minister 'will use the powers available to [him] under the Local Government Act 1995';*

- 2 *NOTES AND ACCEPTS the City's legal advice now confirmed by advice from independent Senior Counsel that:*
 - (a) *there are no grounds on which the City can lawfully terminate the CEO's employment unilaterally; and*
 - (b) *any forced termination of the CEO's employment is likely to require a significant payment, by the City, to the CEO - although this payment may be recoverable by the City from the Mayor in his personal capacity;*
- 3 *DETERMINES that it is not in the City's interests for the Council to terminate, or agree to the termination of, the employment of the CEO because, in view of the Mayor's conduct, the departure of the CEO is unlikely to result in the return of good governance to the City;*
- 4 *DETERMINES that the underlying cause of the City's disharmony is the Mayor's repeated and consistent failures to act in accordance with his responsibilities under the Local Government Act 1995, the City's Standing Orders, the City's Code of Conduct and the Mayor's declaration of office;*
- 5 *REAFFIRMS that the Mayor's repeated and consistent failures to act in accordance with his obligations:*
 - (a) *are deliberate refusals to accept the lawful and proper exercise of the Council's decision making powers;*
 - (b) *undermine the lawful authority of the City's duly elected Council;*
 - (c) *have adversely affected the City's reputation;*
 - (d) *have adversely affected the good governance and the functioning of the City;*
 - (e) *have exposed the City to a risk of legal liability for damages to the extent that the Mayor's actions might be attributed to the City; and*
 - (f) *have resulted in, and are continuing to result in, great harm and cost to the City and its ratepayers;*
- 6 *DETERMINES that, given the harm that the Mayor is causing to the City, the legal incapacity of the City to prevent the Mayor so acting, and the Council's wish to avoid further harm being inflicted on the City, the Council requests the Minister to exercise his power to suspend the Council in order to enable:*

- (a) *the public to be properly informed; and*
 - (b) *good governance to be restored to the City.*
- 7 *DELEGATES Councillors O'Brien, Gollant, Nixon, Prospero, Mackintosh and Brewer seek a meeting with the Minister for Local Government to inform him of Council's decision;*
- 8 *AUTHORISES Minter Ellison to respond to the correspondence to Blake Dawson Waldron on behalf of the CEO relating to the CEO's employment with the City."*

Chief Executive Officer declared a financial interest in this Item as it impacts on his Contract of Employment.

Chief Executive Officer left the Chamber at this point, the time being 1950 hrs.

Mr M Loader, Manager Human Resources and Mr Neil Douglas, Minter Ellison entered the Chamber at this point, the time being 1950 hrs.

Mayor Carlos ruled the Motion **OUT OF ORDER** as the motion was not able to be read on the screen.

MOVED Cr Baker, SECONDED Cr Gollant that the meeting **DISSENT** with the Mayor's ruling.

The Motion to Dissent was not pursued.

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

C252-12/03 REQUEST TO MINISTER TO EXERCISE POWERS UNDER THE LOCAL GOVERNMENT ACT 1995

MOVED Cr Baker, SECONDED Cr Nixon that the Council:

- 1 **NOTES that the Minister has informed the Council that unless it 'has achieved a satisfactory resolution of the underlying issues at the City' by 4 December 2003, the Minister 'will use the powers available to [him] under the Local Government Act 1995';**
- 2 **NOTES AND ACCEPTS the City's legal advice now confirmed by advice from independent Senior Counsel that:**
 - (a) **there are no grounds on which the City can lawfully terminate the CEO's employment unilaterally; and**
 - (b) **any forced termination of the CEO's employment is likely to require a significant payment, by the City, to the CEO - although this payment may be recoverable by the City from the Mayor in his personal capacity;**

- 3 **DETERMINES that it is not in the City's interests for the Council to terminate, or agree to the termination of, the employment of the CEO because, in view of the Mayor's conduct, the departure of the CEO is unlikely to result in the return of good governance to the City;**
- 4 **DETERMINES that the underlying cause of the City's disharmony is the Mayor's repeated and consistent failures to act in accordance with his responsibilities under the Local Government Act 1995, the City's Standing Orders, the City's Code of Conduct and the Mayor's declaration of office;**
- 5 **REAFFIRMS that the Mayor's repeated and consistent failures to act in accordance with his obligations:**
 - (a) **are deliberate refusals to accept the lawful and proper exercise of the Council's decision making powers;**
 - (b) **undermine the lawful authority of the City's duly elected Council;**
 - (c) **have adversely affected the City's reputation;**
 - (d) **have adversely affected the good governance and the functioning of the City;**
 - (e) **have exposed the City to a risk of legal liability for damages to the extent that the Mayor's actions might be attributed to the City; and**
 - (f) **have resulted in, and are continuing to result in, great harm and cost to the City and its ratepayers;**
- 6 **DETERMINES that, given the harm that the Mayor is causing to the City, the legal incapacity of the City to prevent the Mayor so acting, and the Council's wish to avoid further harm being inflicted on the City, the Council requests the Minister to exercise his power to suspend the Council in order to enable:**
 - (a) **the public to be properly informed; and**
 - (b) **good governance to be restored to the City.**
- 7 **DELEGATES Councillors O'Brien, Gollant, Nixon, Prospero, Mackintosh and Brewer seek a meeting with the Minister for Local Government to inform him of Council's decision;**
- 8 **AUTHORISES Minter Ellison to respond to the correspondence to Blake Dawson Waldron on behalf of the CEO relating to the CEO's employment with the City.**

AMENDMENT MOVED Cr Kimber, SECONDED Cr Brewer that Point 2 of the motion be amended by the addition of the following wording after the words “the City’s legal advice...”:

“2from one of this State’s leading Local Government Lawyers, Mr Neil Douglas of Minter Ellison, lawyers, and now confirmed by advice from independent Senior Counsel, Mr Kenneth Pettit SC, the SC appointed by the State Government to assist the Royal Commissioner in the WA Police Royal Commission;”

The Amendment was Put and

CARRIED (8/5)

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

Discussion ensued on the original motion as amended.

Extension of Time to Speak

MOVED Cr Kimber, SECONDED Cr Prospero that Cr Baker be permitted an extension of time to speak for a further five (5) minutes.

The Motion to Extend was Put and

CARRIED

Discussion resumed.

To a request from Cr Baker, Cr Hollywood withdrew inappropriate remarks he had made in relation to law firm, Minter Ellison.

Cr Baker raised a Point of Order. Mayor Carlos ruled this was not a Point of Order and advised Cr Baker that should he interrupt again, he would not be heard for the remainder of the evening.

Extension of Time to Speak

MOVED Cr Baker, SECONDED Cr Walker that Cr Hollywood be permitted an extension of time to speak for a further five (5) minutes.

The Motion to Extend was Put and

CARRIED

Discussion resumed.

Cr Baker raised a Point of Order. Mayor Carlos ruled this was not a Point of Order and in line with an earlier warning, ruled that, in accordance with Clause 4.1.15 of the City’s Standing Orders Local Law, Cr Baker not be heard for the remainder of the meeting.

MOVED Cr Baker, SECONDED Cr Kimber that the meeting DISSENT with the Mayor’s ruling.

The Motion to Dissent was not pursued.

MOVED Cr Walker, SECONDED Cr Caiacob that in accordance with Clause 5.4 of the City's Standing Orders Local Law the motion Moved by Cr Baker and Seconded by Cr Nixon **LIE ON THE TABLE.**

The Motion to Lie on the Table was Put and

LOST (5/8)

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

Discussion resumed.

Extension of Time to Speak

MOVED Cr O'Brien, SECONDED Cr Baker that Mayor Carlos be permitted an extension of time to speak for a further five (5) minutes.

The Motion to Extend was Put and

CARRIED

Discussion resumed.

During discussion, Cr Walker left the Chamber at 2043 hrs and returned at 2045 hrs.

To a request from Mayor Carlos, Cr Prospero advised he would not withdraw comments in relation to the public attacking his family.

MOVED Cr Mackintosh SECONDED Cr Nixon that the Motion **BE NOW PUT.**

The Procedural Motion was Put and

CARRIED (8/5)

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

Cr Hart left the Chamber at this point, the time being 2059 hrs.

The Original Motion, as amended, being:

That Council:

- 1** **NOTES** that the Minister has informed the Council that unless it 'has achieved a satisfactory resolution of the underlying issues at the City' by 4 December 2003, the Minister 'will use the powers available to [him] under the Local Government Act 1995';
- 2** **NOTES AND ACCEPTS** the City's legal advice from one of this State's leading Local Government Lawyers, Mr Neil Douglas of Minter Ellison, lawyers, and now confirmed by advice from independent Senior Counsel, Mr Kenneth Pettit SC, the SC appointed by the State Government to assist the Royal Commissioner in the WA Police Royal Commission:

- (a) there are no grounds on which the City can lawfully terminate the CEO's employment unilaterally; and
 - (b) any forced termination of the CEO's employment is likely to require a significant payment, by the City, to the CEO - although this payment may be recoverable by the City from the Mayor in his personal capacity;
- 3 DETERMINES that it is not in the City's interests for the Council to terminate, or agree to the termination of, the employment of the CEO because, in view of the Mayor's conduct, the departure of the CEO is unlikely to result in the return of good governance to the City;
- 4 DETERMINES that the underlying cause of the City's disharmony is the Mayor's repeated and consistent failures to act in accordance with his responsibilities under the Local Government Act 1995, the City's Standing Orders, the City's Code of Conduct and the Mayor's declaration of office;
- 5 REAFFIRMS that the Mayor's repeated and consistent failures to act in accordance with his obligations:
 - (a) are deliberate refusals to accept the lawful and proper exercise of the Council's decision making powers;
 - (b) undermine the lawful authority of the City's duly elected Council;
 - (c) have adversely affected the City's reputation;
 - (d) have adversely affected the good governance and the functioning of the City;
 - (e) have exposed the City to a risk of legal liability for damages to the extent that the Mayor's actions might be attributed to the City; and
 - (f) have resulted in, and are continuing to result in, great harm and cost to the City and its ratepayers;
- 6 DETERMINES that, given the harm that the Mayor is causing to the City, the legal incapacity of the City to prevent the Mayor so acting, and the Council's wish to avoid further harm being inflicted on the City, the Council requests the Minister to exercise his power to suspend the Council in order to enable:
 - (a) the public to be properly informed; and
 - (b) good governance to be restored to the City.
- 7 DELEGATES Councillors O'Brien, Gollant, Nixon, Prospero, Mackintosh and Brewer seek a meeting with the Minister for Local Government to inform him of Council's decision;

8 AUTHORISES Minter Ellison to respond to the correspondence to Blake Dawson Waldron on behalf of the CEO relating to the CEO's employment with the City.

was Put and

CARRIED (8/4)

In favour of the Motion: Crs Baker, Brewer, Gollant, Kimber, Mackintosh, Nixon, O'Brien, Prospero.

Against the Motion: Mayor Carlos, Crs Caiacob, Hollywood, Walker.

Cr Hart entered the Chamber at this point, the time being 2100 hrs.

C253-12/03

**SUSPENSION OF STANDING ORDERS LOCAL LAW – [02154]
[08122] [01369]**

MOVED Cr Hollywood, SECONDED Cr Walker that in accordance with Clause 8.1 of the City's Standing Orders Local Law, as a case of urgent necessity, Clause 3.12 of the City's Standing Orders Local Law, which requires seven (7) days prior notice in writing for a notice of motion, BE SUSPENDED in order to consider the following motion:

"That Council:

- 1 AUTHORISES Mayor Carlos to seek and obtain legal advice from Phillips Fox, solicitors, or another recognised legal firm in relation to the Writ of Summons prepared by Blake Dawson Waldron in relation to matters between Mr Denis Smith and Don Carlos of the City of Joondalup;*
- 2 PLACES an upper limit of expenditure not exceeding \$5,000 as per Policy 2.2.8 – Legal Representation for Present and Former Elected Members and staff of the City."*

Cr O'Brien queried the appropriateness of Mayor Carlos declaring an interest in this matter.

Mayor Carlos left the Chamber at this point, the time being 2102 hrs. Cr Hollywood assumed the Chair.

The Motion was Put and

LOST (5/7)

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

Mayor Carlos entered the Chamber at this point and resumed the Chair, the time being 2104 hrs.

PERSONAL EXPLANATION – CR WALKER

In accordance with Clause 4.5 of the City’s Standing Orders Local Law, Cr Walker made the following personal explanation:

“I voted against Cr Baker’s motion with regards as to the one that we did before the one that we just did now, because it was too long and I am not going to repeat because we did not have adequate time to prepare for such a motion Mr Mayor and I don’t believe it was the best outcome that we could have voted for. It was a solution, but I don’t believe it was the best solution. I did receive comments from Mr Neil Douglas with that regards today and I took what he said into consideration and I don’t believe that that is the best outcome that we have done Mr Mayor. It is an outcome, but it is not the best outcome and I would like to have my personal explanation recorded in its entirety in the minutes.”

C254-12/03 RESUMPTION OF STANDING ORDERS – [05885]

MOVED Cr Kimber, SECONDED Cr Gollant that Standing Orders be RESUMED with the continuation of business as listed on the agenda for this evening’s meeting, commencing with Item 3.

The Motion was Put and

CARRIED

Chief Executive Officer entered the Chamber at this point, the time being 2106 hrs.

PERSONAL EXPLANATION – CR S HART

In accordance with Clause 4.5 of the City’s Standing Orders Local Law, Cr Hart made the following personal explanation:

“Mr Mayor, I left the room when I was voting on that motion because as I said in debate, I couldn’t vote on it unless I was fully informed and I was not fully informed. I don’t disagree with Council being stood down or even sacked because we are not giving good governance and really nothing has changed in this Council since 18 months ago because we still have a faction operating. We have information that we cannot receive across the board. I could not vote for that motion because I did not have all the information.”

Cr Hollywood left the Chamber at this point, the time being 2107 hrs.

APOLOGIES AND LEAVE OF ABSENCE

Apology: Cr Rowlands

Leave of absence previously approved:

Cr G Kenworthy	28 November – 31 December 2003 inclusive
Cr A Nixon	1 December – 5 December 2003 inclusive
Cr C Baker	17 December – 15 January 2004 inclusive

C255-12/03 REQUEST FOR LEAVE OF ABSENCE – CR A NIXON - [76541]

Cr A Nixon has requested Leave of Absence from Council duties for the period 1 January 2004 to 20 February 2004 inclusive.

MOVED Cr Prospero, SECONDED Cr Kimber that Council APPROVES the request from Cr A Nixon for Leave of Absence from Council duties for the period 1 January 2004 to 20 February 2004 inclusive.

The Motion was Put and

CARRIED UNANIMOUSLY (12/0)

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

DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

Cr Baker declared a financial interest in Item CJ268-10/03 – Business & Community Directory Partnership Proposal – Joondalup Business Association as he is an Executive member of the Joondalup Business Association.

Cr Prospero declared an interest that may affect his impartiality in Item CJ268-12/03 – Business & Community Directory Partnership Proposal – Joondalup Business Association as he is a member of the Joondalup Business Association.

Cr O'Brien declared a financial interest in Item CJ269-12/03 - Warrant of Payments – 31 October 2003 (Voucher No 59491 - Chubb Electronic Security) – as Chubb Security has taken over an FAI Extra Watch security at his residence.

Cr Gollant declared a financial interest in Item CJ278-12/03 – Close of Advertising – Amendment No 17 to District Planning Scheme No 2 – Location 13649 (52) Marri Road, Duncraig (Rezoning from Business R20 to Residential R40) as the proposal is adjacent to her property.

Cr Baker declared a financial interest in Item CJ279-12/03 – Proposed Mixed Use Development (Commercial and Residential Units) at Lot 495 (167) Grand Boulevard, cnr Boas Avenue, Joondalup because he has an interest in a block of land located immediately directly next to the proposed development site.

Cr Brewer declared a financial interest in Item CJ279-12/03 – Proposed Mixed Use Development (Commercial and Residential Units) at Lot 495 (167) Grand Boulevard, cnr Boas Avenue, Joondalup as this development is in close proximity to Cr Brewer's residence.

Cr Brewer declared a financial interest in Item CJ283-12/03 – Delegated Authority Report for the Month of October 2003 as one of the applications related to Cr Brewer's residence.

Cr Baker declared a financial interest in Item CJ284-12/03 – Subdivision Referrals Processed 1-31 October 2003 as one of the properties listed is in close proximity to Cr Baker's residence.

Cr Brewer declared a financial interest in Item CJ285-12/03 – Community Funding Program 2003-2004 Grants Allocations – First Funding Round as one of the associations to receive funding financially supports Cr Brewer's employment position at Ocean Reef High School.

Cr O'Brien declared a financial interest in Item C260-12/03 – Notice of Motion No 3 – Mayor D Carlos – Christmas Hampers – Gift to Elected Members as the Item affects Cr O'Brien personally.

Cr Hart declared an interest that may affect her impartiality in Item C263-12/03 – Notice of Motion No 7 – Cr J Gollant – Code of Conduct – Censure as this Item relates to Cr Hart personally.

Chief Executive Officer declared a financial interest in Item C263-12/03 - Notice of Motion No 7 – Cr J Gollant – Code of Conduct – Censure as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item C266-12/03 - Notice of Motion No 9 – Censure of Elected Member as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item 1 - Confidential - Notice of Motion – Cr J Hollywood - Legal Advice on Public Comments relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer Employment Related Matters as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item 2 - Confidential - Notice of Motion – Cr J Hollywood - Standing Committee on Public Administration and Finance - Legal Expenses as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item 3 - Confidential – Notice of Motion – Cr J Hollywood – Request for Variation to Chief Executive Officer's Contract of Employment as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item 4 - Confidential - Notice of Motion – Cr C Baker - Legal Advice on Public Comments Relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer Employment Related Matters as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item 5 - Confidential - Notice of motion – Cr C Baker - Standing Committee on Public Administration and Finance - Legal Expenses as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item 6 - Confidential – Notice of Motion – Cr C Baker – Request for Variation to Chief Executive Officer's Contract of Employment as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer declared a financial interest in Item 7 - Confidential - Notice of Motion – Mayor D Carlos - Refund of CEO Corporate Credit Card Expenditure as this Item may impact on Mr Smith’s Contract of Employment.

Chief Executive Officer declared a financial interest in Item 8 - Confidential - Notice of Motion – Mayor D Carlos – Council Credit Cards as this Item may impact on Mr Smith’s Contract of Employment.

Chief Executive Officer declared a financial interest in Item 9 - Confidential - Notice of Motion – Mayor D Carlos – Telephone Accounts as this Item may impact on Mr Smith’s Contract of Employment.

Chief Executive Officer declared a financial interest in Item 10 - Confidential - Notice of Motion – Mayor D Carlos – Information on CEO Salary Package as this Item may impact on Mr Smith’s Contract of Employment.

Director, Planning and Community Development, Mr Clayton Higham declared a financial interest in Item 11 - Confidential - Notice of Motion – Mayor D Carlos – Salary Packages – Executive and Business Managers as this Item relates to possible disclosure of aspects of Mr Higham’s Contract of Employment.

Director, Infrastructure and Operations, Mr David Djulbic declared a financial interest in Item 11 – Confidential – Notice of Motion – Mayor D Carlos – Salary Packages – Executive and Business Managers as he is a Director.

Director, Corporate Services and Resource Management, Mr Peter Schneider declared a financial interest in Item 11 – Confidential – Notice of Motion – Mayor D Carlos – Salary Packages – Executive and Business Managers as information requested would include Mr Schneider’s Contract of Employment and salary related details.

Director, Corporate Services and Resource Management, Mr Peter Schneider stated his intention to declare a financial interest in Item 13 – Confidential – Notice of Motion – Mayor D Carlos – Staff Salary Information as information requested would include my contract of employment and salary related details.

Cr Hollywood entered the Chamber at this point, the time being 2109 hrs.

CONFIRMATION OF MINUTES

C256-12/03

MINUTES OF COUNCIL MEETING – 11 NOVEMBER 2003

MOVED Cr Kimber, SECONDED Cr Mackintosh that the Minutes of the Council Meeting held on 11 November 2003 be confirmed as a true and correct record, subject to the following correction to be included prior to Public Question Time on Page 1 of the Minutes:

“MOVED Cr Walker, SECONDED Cr Caiacob that the electronic media be present in the Council Chamber during this evening’s meeting.

The Motion was Put and

LOST(6/8)

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

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

C257-12/03

MINUTES OF SPECIAL COUNCIL MEETINGS, 9 AND 17 NOVEMBER 2003

OFFICER’S RECOMMENDATION: That the Minutes of the Special Council Meetings held on 9 and 17 November 2003 be confirmed as a true and correct record.

MOVED Cr Walker, SECONDED Cr Hollywood that confirmation of the Minutes of the Special Council Meetings held on 9 and 17 November 2003 LIE ON THE TABLE, pending Officer’s clarification of items recorded.

Cr Walker raised concerns in relation to the minutes of the Special Council Meetings held on 9 and 17 November 2003 and was of the opinion that certain decisions made during the Behind Closed Doors sessions were not reflected in the minutes.

The Motion was Put and

CARRIED (9/4)

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

In accordance with Standing Orders Local Law, Clause 5.4 – “The Motion Lie on the Table” a record is to be taken of all those who have spoken on the motion under debate. It is therefore recorded that Cr Walker spoke on the Motion Moved by Cr Walker and Seconded by Cr Hollywood.

ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION

BIKERS CHARITY RIDE

The City of Joondalup will be “invaded” by about 7000 bikers next Saturday.

It will be my pleasure to welcome all the riders in the 28th Annual Bikers’ Charity Ride.

The charity ride is the oldest in Australia and last year had about 7000 participants.

It will begin at Lathlain Park and finish at Arena Joondalup, where the City is staging a free community fair.

Since it began, you have helped raise \$1,500,000 for the Salvation Army and the needy at Christmas.

All residents are invited to what promises to be a great day, full of fun activities.

SORRENTO QUAY CHRISTMAS LIGHTS

Last week I was invited to turn on Sorrento Quay's Christmas lights.

The \$100,000 Christmas lights feature 40 large stars, as well as chasing lighting, and a Christmas tree on Northern Tower.

I am pleased that the City's Planning staff have dealt with all the approvals required since the fire at the Marina and all building is expected to be finished by March.

In the meantime, the spectacular lights will add some Christmas cheer, in keeping with the wonderful displays we see around our suburbs.

PETITIONS

C258-12/03

PETITIONS SUBMITTED TO THE COUNCIL MEETING – 2 DECEMBER 2003

1 PETITION IN RELATION TO CONTRACT OF EMPLOYMENT – MR DENIS SMITH – [70544]

Cr Caiacob tabled a 404-signature petition from residents of the City of Joondalup requesting that the Council terminates Mr Denis Smith's Employment Contract immediately and without compensation for the following reasons, all of which are in the public arena:

- 1 that Mr Denis Smith apparently entered his employment contract in bad faith by supplying false information to the City of Joondalup;
- 2 that Mr Denis Smith apparently failed to act at all times in the best interests of the City of Joondalup as required in his Employment Contract;
- 3 that Council has a responsibility to its Electors to create trust between the public and local government by honestly dealing with all aspects of the CEO issue, particularly questions of acting in good faith in the interests of the residents and the City;
- 4 that Mr Denis Smith has failed to supply the Mayor with the records of his Corporate Credit Cards as required in his employment contract.

2 PETITION IN RELATION TO TRAFFIC ISSUES, MULLIGAN DRIVE, GREENWOOD – [14100] [35487] [35485]

Cr O'Brien submitted a 42-signature petition from residents of Greenwood requesting that Council:

- 1 gives consideration to the matter of ensuring that every means possible are enacted to make Mulligan Drive, Greenwood a safer place in which to reside in our homes subsequent to the latest incident where a vehicle lost control on the bend in Mulligan Drive and damage resulted;
- 2 gives consideration to approaching Main Roads to install a control device, restricting southbound right hand turns from Wanneroo Road into Gorman Street in Greenwood, at peak traffic times in order to reduce the "Ratlaners" using Mulligan Drive as a "through road";
- 3 to persuade the Warwick Traffic Police to give attention to traffic in Mulligan Drive by monitoring vehicles that constantly speed along Mulligan Drive as they "ratlane" through from Wanneroo Road to avoid the traffic lights at Marangaroo Drive/Wanneroo Road and Warwick Road/Wanneroo Road and then travel south in Cockman and Erindale Roads in order to access the Mitchell Freeway.

This petition will be referred to Infrastructure and Operations for action.

MOVED Cr Hart, SECONDED Cr Caiacob that the petitions in relation to:

- 1 the Employment Contract of Chief Executive Officer, Mr Denis Smith;**
- 2 traffic issues in Mulligan Drive, Greenwood;**

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

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

CJ267 - 12/03 PROPOSED CITY OF JOONDALUP STANDING ORDERS AMENDMENT LOCAL LAW 2003 – [25548] [08122] [76541] [05885]

WARD - All

Summary of Purpose and Effect (to be read aloud at the Council Meeting)

The first action in the process to adopt a new local law requires a summary of the purpose and effect to be read aloud by the Mayor. The summary is as follows:

“The purpose of this local law is to:

amend the former City of Wanneroo Standing Orders Local Law 1997, carried over to the City of Joondalup on its creation on 1 July 1998.

The effect of the City of Joondalup Standing Orders Amendment Local Law 2003 will:

Permit better management and implementation of Council’s decision making process by enabling all notices of motion for revocation of Council decisions to be considered at the next qualifying meeting.”

PURPOSE

The purpose of this report is to outline a proposed amendment to the City’s Standing Orders Local Law 1997 which aims to better support the decision making and implementation process of Council and obtain approval to advertise seeking public comment as part of the adoption process.

EXECUTIVE SUMMARY

The proposed amendment to the City’s Standing Orders Local Law 1997 involves deleting the current clause 4.4. Revocation Motions and substitution of it with a revised new clause. The intent of the proposed new clause is to provide support for Council’s decision making and decision implementation process. This would be achieved by enabling all notices of motion to revoke a decision of Council, to be considered at the next qualifying meeting

The first part of the process that must be followed to adopt the proposed amendment to the Standing Orders Local Law is in accordance with section 3.12 of the Local Government Act 1995 (The Act). The first part involves:

- *reading aloud the purpose and intent of the proposed local law, at the meeting*
- *the giving of statewide and local public notice that the local government proposes to make a local law. Matters to be included in that notice:*
 - (i) *the purpose and effect of the local law;*
 - (ii) *advice that copies of the proposed local law can be obtained from the local government;*
 - (iii) *inviting submissions/public comment for six weeks after giving the notice.*

This process is outlined in full in the Detail section of this report.

BACKGROUND

A major responsibility of local governments is to provide good government for their community. This responsibility requires local governments to have in place sound processes to make and implement decisions on matters that are the business of the Council. The formal

process of decision making, which is carried out in the meetings of Council, is subject to the City's Standing Orders Local Law 1997. The Standing Orders Local Law sets out the rules of debate and meeting management that have to be followed by elected members during their meetings.

The City's current Standing Orders Local Law was carried over from the former City of Wanneroo when the new local governments of City of Joondalup and then Shire of Wanneroo were created on 1 July 1998. Since then, the City has endeavoured to develop its own Standing Orders Local Law to overcome several areas of concern, apply a format that is easier to read and understand and which is more in keeping with industry best practice. The proposed new Standing Orders Local Law previously considered by Council did not achieved the necessary Special Majority vote required for its adoption.

A revised Standing Orders Local Law is currently being prepared in conjunction with the City's solicitor and will be progressed to Council through the Standing Orders Review Committee.

DETAILS

One of the major concerns with Council's current decision making process is the apparent ease with which implementation of Council decisions can be delayed under the provisions of the City's current Standing Orders, clause 4.4 Revocation Motions. The concern with the current clause is that it allows one third of elected members to prevent the implementation of a decision made by the majority of elected members.

To address this matter, legal advice was obtained to draft the proposed amendment (See attachment 1) that takes the form of a separate Amendment Local Law.

Local Law Making Procedure

The procedure to amend a local law is the same as that required for making a local law.

Section 3.12 of the Local Government Act 1995, details the procedure that a local government must follow when making a local law. The details relating to the first stage of making a local law are:

- “ **3.12**
- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence it is described.
 - (2) At a Council meeting the person presiding is to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.
 - (3) The local government is to -
 - (a) give statewide and local public notice stating that -
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice;

- (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day not less than 6 weeks after the notice is first given.
- (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the proposed local law is proposed to be made, to that other Minister, and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law * that is not significantly different from what was proposed.

**Special Majority Required ”*

COMMENT

It is recommended that the proposed local law (Attachment 1) be advertised in accordance with section 3.12 of the Local Government Act 1995, in order to seek public comment. On completion of the public comment period, a further report will be provided to Council with details of any public comment received and to progress adoption of the proposed amendment.

ATTACHMENTS

Attachment 1 Proposed City of Joondalup Standing Orders Amendment Local Law 2003.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION: That Council, in accordance with section 3.12 of the Local Government Act 1995, APPROVES the advertising of the proposed local law, “City of Joondalup Standing Orders Amendment Local Law 2003”, forming Attachment 1 to Report CJ267-12/03 in order to seek public comment.

MOVED Cr Walker, SECONDED Cr Hart that the matter pertaining to the proposed City of Joondalup Standing Orders Amendment Local Law 2003 be DEFERRED and referred to the Standing Orders Review Committee for consideration and recommendations to Council.

The Motion was Put and

CARRIED (11/2)

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

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf251103.pdf](#)

Cr Baker declared a financial interest in Item CJ268-10/03 – Business & Community Directory Partnership Proposal – Joondalup Business Association as he is an Executive member of the Joondalup Business Association.

Cr Prospero declared an interest that may affect his impartiality in Item CJ268-12/03 – Business & Community Directory Partnership Proposal – Joondalup Business Association as he is a member of the Joondalup Business Association.

Cr Baker left the Chamber at this point, the time being 2120 hrs.

**CJ268 - 12/03 BUSINESS & COMMUNITY DIRECTORY
PARTNERSHIP PROPOSAL – JOONDALUP
BUSINESS ASSOCIATION – [03082]**

WARD - All

PURPOSE

The purpose of this report is to consider the continued partnership between the City of Joondalup and the Joondalup Business Association to produce the 2004/2005 Business and Community Directory.

EXECUTIVE SUMMARY

The Business & Community Directories produced over the past three years with financial support from the City of Joondalup have been a success, being both well accepted by business and the community, as well as providing the JBA with a potential fund-raising media.

The 2003/04 Directory saw vast improvements in design and quality which, coupled with future improvements and a wider distribution network in future years, could enable the City, local businesses and community groups to expand their profile outside the City's boundaries, bringing increased economic benefits to the region.

This report recommends that the City continues its financial support to the value of \$40,000 (plus GST) for the 2004/05 Business and Community Directory subject to the following terms and conditions:

- 1 the City being allocated appropriate space for information pertaining to Council services (currently this is 16 full A4 pages) with the Community front and inside cover as per 2003/04,
- 2 the City having two representatives on the working party for the production of the Directory,
- 3 the City allocated editorial space and photograph for a joint message from the Mayor and JBA President at the front of both sides of the Directory should it remain with the two cover design,

- 4 the JBA commit to continuing to develop and improve the directory's content and its appeal to a wider audience including identification of new markets and extended distribution channels within the community for the directory,
- 5 the print-run of the Directory is increased to allow for wider distribution, and for the City to be provided a minimum of 6,500 copies for use in new resident welcome & citizenship packs, libraries, recreation centres and customer service centres, and
- 6 continued inclusion of Community organisation/groups listings as supplied by the City.

BACKGROUND

In the past three years the City of Joondalup and the Joondalup Business Association jointly produced annual Business and Community Directories. The City contributed \$32,000 (plus GST) per annum to the project, including distribution to households and local businesses within the City of Joondalup and additional copies provided to the City for general promotions and inclusion in new resident 'welcome packs'.

For the 2003/04 annual directory, the City contributed an additional \$6,500 from existing promotional and advertising budgets to secure the cover and inside cover advertising space to ensure it was financially feasible to convert the Directory to the new 'double sided' format and ensure the City's and Community Information achieved a higher profile within the document.

The City has included in each edition; 16 full colour gloss pages of Council information, services and facilities; approximately 10 pages of Community Listings provided by the City; and editorial in the form of a joint message from the Mayor and JBA President. In addition, two representatives of the City have formed part of the working party for the Directory.

Prior to this project in 1999/2000 the City produced its own quality, 40 page dedicated Council Services Directory with full editorial control at a cost of \$32 000.

The support of these JBA annual Directories was considered beneficial as it allowed the City to demonstrate strong support for the business community by taking a leadership role in the economic vitality of the region. Funds previously allocated to the production of a dedicated Council Services Directory were redirected toward the joint project with the JBA.

A working party consisting of representatives from the Joondalup Business Association, a representative from the City's Marketing Services Team and a representative from the Elected Members were responsible for developing the content and design of the Directory. As members of the working party, the City was able to ensure that the end product was one that was professionally presented as well as a useful reference for residents.

DETAILS

The JBA has invited the City to continue its participation in the 2004/2005 directory, by subscription for advertising space, one cover and inside cover for an amount of \$40,000 (plus GST). This amount represents the value of both the pages previously utilised for Council & Community information and the costs associated with improved cover design and directory format.

Research was undertaken by the City following distribution of the Directory in October and November 2003 as part of an overall City Communication research project. The results of the survey indicated a positive reaction to the directory.

- Awareness of the directory was 82% (extremely high)
- Readership/Usage of directory 49% (well above average)
- 56% rated directory as 'Very useful' (above average percentage)

Financial Implications:

Account No:	1 0510 3720 0102 9999
Budget Item:	Governance Corporate Costs, Printing
Budget Amount:	\$118,000.00
YTD Amount:	\$49,165.00
Actual Cost:	\$26,207.60

Funds are available within existing approved budgets for 2003/2004.

COMMENT

This is the fourth year that the Directory will be produced by the JBA. The research undertaken by the City has indicated that the product is strong and that there is demand and expectation within the community for such a product.

It is envisaged that continuing participation from the City will assist in further improvement of the content and distribution of future editions of the Community Directory. Options for consideration by Council are as follows with Officer's recommendation being Option 1 for the following reasons:

- Feedback received from the Research undertaken by the City, including 300 telephone interviews, indicating that the directory in its new format has above average awareness, usage and satisfaction levels.
- All residents interviewed during in-depth interviews had retained the document in their homes with their mainstream White & Yellow Page books.
- The City received more queries with regards distribution of the 2003/04 Directory than in previous years, again highlighting an increased usage and demand of the directory.
- The City's participation enhances promotion of the Directory into the business sector, making the product as a whole more viable.
- The level of financial contribution in Option 1 ensures the professionalism of the Directory, in particular the Community component, being maintained to the current level with pages allocated for City Services / Facilities as well as Community Services in general.

It is viewed to be most effective, from both cost and communications perspectives, to continue with this joint publication. To maximise the benefit of this publication it is recommended that the City proceed with Option 1 as outlined below.

Option 1

Provide a financial contribution of \$40,000 (plus GST) to the Joondalup Business Association, in accordance with the City's contribution in the past two years and additional funding provided to improve format and usability, to produce a Business & Community Directory for 2004/05, subject to the following revised terms and conditions:

- 1 the City being allocated appropriate space for information pertaining to Council services (currently this is 16 full A4 pages) with the Community front and inside cover as per 2003/04;
- 2 the City having two representatives on the working party for the production of the Directory;
- 3 the City allocated editorial space and photograph for a joint message from the Mayor and JBA President at the front of both sides of the Directory should it remain with the two cover design;
- 4 the JBA commit to continuing to develop and improve the directory's content and its appeal to a wider audience including identification of new markets and extended distribution channels within the community for the directory;
- 5 the print-run of the Directory is suitably increased to allow for wider distribution, and for the City to be provided a minimum of 6,500 copies for use in new resident welcome and citizenship packs, libraries, recreation centres and customer service centres, and
- 6 continued inclusion of Community organisation/groups listings as supplied by the City.

Option 2

To retain level of funding as per previous years without improvements to the publication and with the requirement of the Joondalup Business Association to supply the City with a minimum number of 3,000 copies.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Kimber, SECONDED Cr Mackintosh that Council AGREES to contribute an amount of \$40,000 (plus GST) to the Joondalup Business Association towards the production of the 2004/05 edition of the Joondalup Business and Community Directory with following terms and conditions:

- 1 the City being allocated appropriate space for information pertaining to Council services (currently this is 16 full A4 pages) with the Community front and inside cover as per 2003/04;**
- 2 the City having two representatives on the working party for the production of the Directory;**
- 3 the City allocated editorial space and photograph for a joint message from the Mayor and JBA President at the front of both sides of the Directory;**
- 4 the JBA commit to continuing to develop and improve the directory's content and its appeal to a wider audience including identification of new markets and extended distribution channels within the community for the directory;**
- 5 the print-run of the Directory is suitably increased to allow for wider distribution, and for the City to be provided a minimum of 6,500 copies for use in new resident welcome & citizenship packs, libraries, recreation centres and customer service centres, and**
- 6 continued inclusion of Community organisation/groups listings as supplied by the City.**

AMENDMENT MOVED Cr Hollywood, SECONDED Cr Walker that the amount of "\$40,000" be amended to read "\$32,000".

Discussion ensued.

The Amendment was Put and

LOST (4/8)

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

The Motion Moved by Cr Kimber, Seconded by Cr Mackintosh was Put and

CARRIED (9/3)

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

Cr O'Brien declared a financial interest in CJ269-12/03 - Warrant of Payments – 31 October 2003 (Voucher No 59491 - Chubb Electronic Security) – as Chubb Security has taken over an FAI Extra Watch security at his residence.

Cr O'Brien left the Chamber at this point, the time being 2126 hrs.

**CJ269 - 12/03 WARRANT OF PAYMENTS – 31 OCTOBER 2003 –
[09882]**

WARD - All

PURPOSE

The Warrant of Payments as at 31 October 2003 is submitted to Council for approval.

EXECUTIVE SUMMARY

This report details the cheques drawn on the funds during the month of October 2003. It seeks Council's approval for the payment of the October 2003 accounts.

DETAILS

FUNDS	VOUCHERS	AMOUNT
Municipal	000439A - 000448	\$10,931,880.08
Director Corporate Services & Resource Management Advance Account	058927 – 059730	\$10,738,136.55
Trust Account	000022	\$31.95
	TOTAL	\$21,670,048.58

The difference in total between the Municipal and Director of Corporate Services & Resource Management Advance Account is attributable to the direct debits by the Commonwealth Bank for bank charges, credit card charges, investments and dishonoured cheques being processed through the Municipal Fund.

It is a requirement pursuant to the provisions of Regulation 13(4) of the Local Government (Financial Management) Regulations 1996 that the total of all other outstanding accounts received but not paid, be presented to Council. At the close of October 2003, the amount was \$1,053,903.95

The cheque register is appended as Attachment A & B

CERTIFICATE OF THE DIRECTOR OF CORPORATE SERVICES & RESOURCE MANAGEMENT

This warrant of payments to be passed for payment, covering vouchers numbered as indicated and totalling \$21,670,048.58 which is to be submitted to each Elected Member on 2 December 2003 has been checked and is fully supported by vouchers and invoices which are submitted herewith and which have been duly certified as to the receipt of goods and the rendition of services and as to prices, computations and costing and the amounts shown are due for payment.

PETER SCHNEIDER
Director Corporate Services & Resource Management

CERTIFICATE OF MAYOR

I hereby certify that this warrant of payments covering vouchers numbered as indicated and totalling \$21,670,048.58 was submitted to Council on 2 December 2003

.....
Mayor Don Carlos

ATTACHMENTS

Attachment A Warrant of Payments for Month of October
Attachment B Municipal Fund Vouchers

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Prospero, SECONDED Cr Kimber that Council APPROVES for payment the following vouchers, as presented in the Warrant of Payments to 31 October 2003, certified by the Mayor and Director Corporate Services & Resource Management and totalling \$21,670,048.58.

FUNDS	VOUCHERS	AMOUNT
Municipal	000439A - 000448	\$10,931,880.08
Director Corporate Services & Resource Management Advance Account	058927 – 059730	\$10,738,136.55
Trust Account	000022	\$31.95
	TOTAL	\$21,670,048.58

To a query raised by Cr Walker, Director Corporate Services and Resource Management advised details for credit card purchases would be listed in the Warrant of Payments for the month of November.

The Motion was Put and

CARRIED UNANIMOUSLY (11/0)

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

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf251103.pdf](#)

CJ270 - 12/03 FINANCIAL REPORT FOR THE PERIOD ENDING 31 OCTOBER 2003 – [07882]

WARD - All

PURPOSE

The October 2003 financial report is submitted to Council to be noted.

EXECUTIVE SUMMARY

The October 2003 year to date report shows an overall variance of \$8.4m when compared to budget.

This variance can be analysed as follows:

- The **Operating** position shows a surplus of \$32.8m compared to a budget of \$32.2m at the end of October 2003. The variance of \$0.6m is due primarily to an under spend in materials & contracts and utilities.
- **Capital Expenditure** is \$0.2m compared to a budget of \$1.3m at the end of October 2003, an under spend of \$1.1m. This is a timing variance due to delays in purchasing computer hardware and vehicles.
- **Capital Works** expenditure is \$1.6m against a budget of \$8.3m, an under spend of \$6.7m at the end of October 2003. This is a timing variance of which \$5.0m relates to delays in Corporate Projects.

DETAILS

The financial report for the period ending 31 October 2003 is appended as Attachment A to this Report.

ATTACHMENTS

Financial Report for the period ending 31 October 2003.

VOTING REQUIREMENTS

Simple Majority

Crs O'Brien and Baker entered the Chamber at this point, the time being 2128 hrs.

MOVED Cr Prospero, SECONDED Cr Brewer that the Financial Report for the period ending 31 October 2003 be NOTED.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf251103.pdf](#)

CJ271 - 12/03 CORPORATE CREDIT CARDS – [18049] [59174]

WARD - All

PURPOSE

The purpose of this report is for Council to approve a review of procedures associated with the use of corporate credit cards.

EXECUTIVE SUMMARY

- The City has issued corporate credit cards to the Mayor and seven staff members.
- The cards have been issued for business related purposes and their use is covered in a corporate procedure manual.
- Established practice and employment contracts are not necessarily fully aligned with the procedure manual.
- An opportunity exists to review the procedure relating to corporate credit cards and to address any anomalies and shortcomings.

It is recommended that the Audit Committee examines the use of all corporate credit cards and how they are processed, approved and documented.

BACKGROUND

On 10 November 2003 the Mayor, via email, directed the Chief Executive Officer and Director Corporate Services & Resource Management to have staff provide him with a summary by month of all expenses incurred by the CEO since commencement of his employment with the City.

The Mayor also made reference to the fact that he had not approved any payments of corporate credit cards held by the CEO since being elected to the position of Mayor and eluded to the fact that the CEO may be in breach of his contract.

In addition to the above the issue of corporate credit cards was raised at the Annual General Meeting of Electors held on 17 November 2003.

DETAILS

Corporate credit cards have been in use at the City dating back to the pre-split days of the City of Wanneroo.

Corporate credit cards are issued to the Mayor and senior employees in order to pay for immediate business expenses where it is inappropriate or not possible to use the City's regular financial systems.

Cards have been issued to the Mayor, CEO, Directors, Purchasing Officers (x2) and Council Steward.

A report setting out guidelines covering the use of corporate credit cards, was originally considered and adopted by the Audit Committee in 2001 (see attachment 1).

Minor modifications have since been incorporated into the Corporate Procedures Manual (see attachment 2).

It would appear however, that established practice differs in some cases to the guidelines outlined in the procedure manual. Additionally, the CEO and Directors have clauses in their employment contracts which may be at odds with the procedure manual and actual practices employed by the credit card providers, i.e. Commonwealth Bank.

COMMENT

Whilst there is no suggestion that credit cards are being used inappropriately, there is obviously room to review current procedures and practices to consolidate and address any anomalies and shortcomings. It is therefore recommended that this matter be referred to the Audit Committee for further consideration.

ATTACHMENTS

Attachment 1 Report for Audit Committee 12 April 2001 - Corporate Procedure - Use of Credit/Charge Cards

Attachment 2 Corporate Procedure 5.6 – Use of Credit/Charge Cards

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Prospero, SECONDED Cr Brewer that the Audit Committee EXAMINES the use of all corporate credit cards and how they are processed, approved and documented.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 24 refers

To access this attachment on electronic document, click here: [Attach24brf251103.pdf](#)

**CJ272 - 12/03 LOCAL GOVERNMENT (FINANCIAL ASSISTANCE)
ACT 1995 - GRANT ALLOCATIONS – [04468] [42002]**

WARD - All

PURPOSE

To consider a request from the Mayor for a submission to be prepared for the Minister for Local Government and Regional Development on the process and methodology used by the WA Local Government Grants Commission. The submission would highlight certain anomalies in the allocation of grants that favour certain councils with high mining properties and that does not recognise the City of Joondalup sufficiently as providing regional amenities.

EXECUTIVE SUMMARY

The Mayor recently held discussions with the Minister for Local Government and Regional Development in relation to the allocation of general purpose grants and advised the Minister that the grants allocation process has anomalies in favour of certain councils with high mining properties and that the process does not recognise the City of Joondalup sufficiently as providing regional amenities.

The Local Government (Financial Assistance) Act 1995 provides for the determination of the total national grant figure, the allocation of the funds to each State and the conditions governing the payment of money to the States for distribution to local governments.

The Commonwealth Grants Commission reviewed the Local Government (Financial Assistance) Act 1995 in 2000/01. The grant allocation process is considered to be comprehensive and complex and the City of Joondalup provided a submission to the Commission in August 2001 which broadly supported the grant allocation principles and methodology.

The City of Joondalup is one of 26 metropolitan local governments receiving a minimum per capita grant allocation of \$15.95. Only three metropolitan local governments do not receive minimum grant payments – Armadale, Kalamunda and Mundaring. By example 3 regional local governments receive grant allocations of \$95 - \$300 per capita.

The State Government entered into agreements in relation to certain mining tenements whereby those operations were exempt from general rates, however are subject to royalty payments directly to the State Governments. The Shires of Collie, East Pilbara and Port Hedland are examples of local governments that are unable to rate significant mining tenements and which do not receive royalty payments, however do receive significant general purpose grant allocations.

The views expressed by the Mayor are not consistent with those conveyed by Council in its submission to the Grants Commission in August 2001 however, there may be merit in grants for Councils in mining communities if it has the potential to redistribute funds to metropolitan Councils.

RECOMMENDATION

That Council endorses a submission to the Minister for Local Government and Regional Development which highlights the issues associated with grant allocation calculations pertaining to local governments in mining communities.

BACKGROUND

In late October 2003 the Mayor attended a luncheon with Minister Stephens and raised an issue in relation to the Western Australian Local Government Grants Commission (WALGGC).

The issue relates to the Mayor's belief that the City is being disadvantaged by the current grant calculation formula, which favours some local governments in mining communities. From his experience in the mining industry the Mayor is aware that some mining companies have implemented practices which have resulted in minimisation of their rates liability.

The process and methodology used by the WALGGC for grant determination purposes was detailed in a confidential report to Council dated 12 June 2001. Attachment A refers.

In summary, the Local Government (Financial Assistance) Act 1995 provides for the determination of the total national grant figure, the allocation of the funds to each State and the conditions governing the payment of money to the States for distribution to local governments.

The WALGGC makes recommendation to the State Minister for the Local Government on the distribution of financial assistance grants to local governments. Once accepted by the State Minister, the recommendation is referred to the Federal Minister for Local Government for approval.

The Commonwealth Grants Commission undertook a review of the Local Government (Financial Assistance) Act 1995 during 2000/01. The City of Joondalup made its submission in August 2001.

DETAILS

The allocation of grants are required by the Commonwealth legislation to be made in accordance with National Principles. The general purpose funding is comprised of two pools – local road component and an equalisation component.

- The *Asset Preservation Model* has been accepted by the Associations of Local Government as a rational and equitable method of allocating funds for road preservation. The model assesses the average annual cost to local government of maintaining its road networks and recognises the existing road assets of each local government and regional differences in the cost of maintenance. The total funding provided available does not meet the assessed costs of preserving the assets.
- The *Balanced Budget Method* is used by the Commonwealth to establish the amount of funding (known as the Equalisation requirement) required for each local government. This involves assessing the revenue raising capacity and assessing the expenditure needs of each local government with reference to various “standards”. Local governments with “assessed revenues” greater than “assessed expenditure” do not qualify for grant funding. The minimum grant provision of \$15.95 per capita applied for the 2003/04 year.

Revenues and Expenditures assessed by the Commission are determined using “standards” across the State. Standards are based on a variety of criteria ranging from simple averages to complex statistical regression analyses. Disability factors (sound economic or physical characteristics), which affect a local government’s ability to provide services or to raise revenue, are also used.

Due to the implementation of the principle of equalisation in Commission formulas, the trend in recent years has been for larger, more urban councils to experience declining grants and smaller rural local governments to experience increasing grants.

The Commonwealth Grants Commission undertook a review of the Local Government (Financial Assistance) Act 1995 during 2000/01.

In its submission to the Commonwealth Grants Commission in August 2001, the City:

- noted that the Review did not address the interstate distribution of general purpose and local roads grants nor the quantum of funds made available under the Act
- contends that the principle of horizontal equalisation across all local governments in Australia would not be achieved without reviewing the allocation of funding between to the states
- believes that as far as is possible the WALGGC is meeting the objectives of section 3(2) of the Local Government (Financial Assistance) Act 1995

- believes that the National Principles (guidelines for the distribution of Commonwealth financial assistance to local governments) are appropriate and achieved through the operations of the WALGGC
- Considers that fiscal equalisation is an honourable ideal that should be attempted and that equalisation can only be a relevant objective if the quantum of funding made available is thoroughly reviewed
- Considers the complexity of the balanced budget methodology adopted by the WALGGC to distribute general purpose funding to be both its strength and weakness. Whilst the complexity of the methodology is difficult to “come to grips with” the methodology recognises the diversity of local governments within Western Australia.
- The WALGGC grant methodology incorporates disability factors that recognise the specific needs of local governments
- The WALGGC operates with considerable transparency and provides full details of its grant determination process following the release of grants allocations each year.

The Mayor considers that certain local governments which have large mining tenements are unfairly advantaged by the grants allocation methodology which is to the detriment of other local governments. In particular, the mining companies concerned do not pay general rates to the local government however they do pay royalties to the State Government. If a portion of the royalty funding was to be allocated directly to the relevant local government, those local governments would have a lower weighting with a resulting impact on the redistribution of grant funds to all other local governments.

By example, the grant allocations for 2003/04 were as follows:

Local Government	Population	2003-04 Equalisation Funding Component	
		(Total \$)	\$ per capita
Collie	10,301	\$1,157,165	\$112.34
East Pilbara	6,380	\$1,915,075	\$300.17
Joondalup	156,964	\$2,503,892	\$ 15.95
Port Hedland	13,356	\$1,273,371	\$ 95.34

(Source: Local Government (Financial Assistance) Act 1995 – 2003-04 Final Grant Allocations)

The Shire of Collie, Shire of East Pilbara and Shire of Port Hedland have several major resource operations on mining tenements owned and operated by organisations such as BHP, Mt Newman Mining, the State Government Collie Power Station and others. Whilst these entities are subject to residential rates as applicable, they have entered into specific agreements with the State Government exempting the mining tenements from general rates. It is understood that those agreements, several of which are covered by specific Acts of Parliament, were to encourage development in these remote regions. It is also understood that the mining companies pay significant royalties to the State Government.

The Mayor considers that the City of Joondalup is unfairly disadvantaged as it provides regional amenities and in particular is developing a number of large regional infrastructure projects to the benefit of the region, including – Craigie Leisure Centre, Ocean Reef Boat Harbour, Performing Arts Centre, Mullaloo Beach, Sorrento Beach, Learning City. These regional facilities however are overwhelmingly funded by the ratepayers of the City.

COMMENT

Council's submission to the Commonwealth Grants Commission broadly supported the Asset Preservation and Balanced Budget Methodology. The models are comprehensive and complex and the methodology was reviewed by the Commonwealth in 2000/01.

The collection of royalties and non rating of certain mining tenements and operations are subject to long standing individual agreements and under statute between the State Government and the relevant organisation and the City of Joondalup is unable to comment on those agreements.

The compensation for non-rating of the mining tenements and the redistribution of royalty payments from State Government to the individual local governments are matters for discussion between those entities.

It is not possible to determine whether the diversion of royalty payments from State Government to local government is possible or whether this would result in changes to the assessment of the annual grant allocations.

Whilst the grant allocation models are comprehensive and complex, the State and Commonwealth does provide specific funding for major infrastructure projects. It is unclear whether the inclusion of additional weighting for such regional factors would result in an increase in grant funding to the City of Joondalup using the existing models.

There may be merit in making the Minister for Local Government and Regional Development aware of the situation relating to rating issues associated within mining communities, if it potentially results in a fairer allocation to metropolitan councils providing regional type infrastructure as outlined above.

ATTACHMENTS

Attachment A WA Local Government Grants Commission – Allocations – 12 June 2001

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Prospero, SECONDED Cr Walker that Council ENDORSES a submission to the Minister for Local Government and Regional Development which highlights the issues associated with grant allocation calculations pertaining to local governments in mining communities.

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 25 refers

To access this attachment on electronic document, click here: [Attach25agn021203.pdf](#)

CJ273 - 12/03 TENDER 004-03/04 – THE SUPPLY OF MOBILE GARBAGE BINS AND/OR THE PROVISION OF STORAGE, DELIVERY AND REPAIR OF MOBILE GARBAGE BINS – [57542]

WARD - All

PURPOSE

To seek Council approval to accept the tender submitted by Sulo MGB Australia P/L for the Supply and Delivery of Mobile Garbage Bins (MGBs) in accordance with the Schedule of Rates for Tender number 004-03/04, for a maximum period of two years, subject to annual review and satisfactory performance and to decline to accept any tender received for the Provision of Storage, Delivery and Repair of Mobile Garbage Bins.

EXECUTIVE SUMMARY

Tenders were advertised on 6 August 2003 through statewide public tender for the Supply and Delivery of Mobile Garbage Bins (MGBs) and/or the Provision of Storage, Delivery and Repair of Mobile Garbage Bins. Tenders closed on 21 August 2003. Three tenders were received for the supply of MGBs and three for the storage, delivery and repair of MGBs.

The City of Joondalup's MGBs supply contract expires in December 2003. The City of Wanneroo currently provides storage, delivery and repair services on an as required basis.

It is recommended that Council:

- 1 *ACCEPTS the tender from Sulo MGB Australia Pty Ltd contract number 004-03/04 for Option one for the supply of mobile garbage bins in accordance with the schedule of rates;*
- 2 *DECLINES to accept any tender for Option two for the provision of storage, delivery and repairs of mobile garbage bins, tender number 004-03/04.*

BACKGROUND

As part of its waste management services the City of Joondalup provides the supply of Mobile Garbage Bins (MGBs) to residents and is responsible for delivery, maintenance and replacement from time to time. Under the current Service Level Agreement between two Cities, the City of Joondalup is responsible for the supply of MGBs and the City of Wanneroo provides for the storage, delivery and repair at the City's request.

Strategic Plan:

No implication for the Strategic Plan.

DETAILS

The advertisement was placed in the West Australian on Wednesday 6 August 2003 and closed 21 August 2003. Tenders were received from the following companies:

Option 1 Supply and Storage of MGBs

- Sulo MGB Australia P/L with its registered office in Somersby, New South Wales;
- Brickwood Pty Ltd with its registered office in Melbourne, Victoria; and
- Asteranch P/L (Clean Sweep) with its registered office in Bellevue, Western Australia.

Under the City's Contract Management Framework, the tenders were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4121-1994 'code of ethics and procedures for the selection of consultants'.

Each member of the Evaluation Team assessed the Tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments, leading to a ranking of each submission in an order of merit.

The Selection Criteria for this tender was as follows:

Levels of Service as determined by the Capability/Competence of Tenderer to perform the work required:

- Company Structure
- Qualifications, Skills and Experience of Key Personnel
- Equipment and Staff Resources available
- Percentage of Operational Capacity represented by this work
- Occupational Health and Safety Management System and Track Record
- Bins Suit One Arm Lifting Systems
- Bins Carry Load of 80kgs
- Bins meet AS 1535 for Colourant
- At Least 10 Years Manufacturing Warranty

Performance and Experience of Tenderer in completing similar projects:

- Relevant Industry Experience, including details of similar work undertaken. Tenderers shall submit a Detailed Schedule of Previous Experience on similar and/or relevant projects. Details of previous projects should include, but not necessarily limited to, description, location, original and final contract/construction amounts, date, duration, client, role on project (e.g. head consultant, project manager, etc)
- Level of Understanding of tender documents and work required
- References from past and present clients

Beneficial Effects of Tender/Local Content:

- The Potential Social and Economic Effect of the tender on the City of Joondalup community
- The Potential Social and Economic Effect of the tender on the West Australian community

- Infrastructure/Office/Staff/Suppliers/Sub-Contractors within the City of Joondalup
- Recycled Plastic Content

Tendered Price/s:

- The Price to Supply the specified services
- Schedule of Rates for additional services, variations and disbursements
- Discounts, settlement terms

Recycling Content in MGBs

In the previous tender it was recommended that the City adopt the Brickwood tender considering their MGB is made with a percentage post consumer plastic, these plastics are the ones recycled by the sorting plant e.g. milk and other plastic beverage containers. The Government at the time was promoting the concept of ‘Close the Loop’ recycling as a purchasing policy and organisations providing this outcome should be supported. In order to support this fledgling post consumer recycled plastic market, the City weighted the previous tender to support this concept. Subsequently, the Brickwood tender was accepted.

Since this time, other bin providers have increased their percentage of recyclable plastics in their MGBs and while MGB manufacturers other than Brickwood cannot recycle post consumer plastics, the recycled content in their MGB have risen to around 30%. The recycling component is usually made up from old MGBs.

The recommended tenderer uses an acceptable 30% of recycled material in the MGB and components.

Overall the tender submitted Sulo Pty Ltd rated the highest tender in relation to the advertised selection criteria.

Option 2 Storage, Delivery and Repair Service

The received tenders were evaluated under the City’s Contract Management Framework and the Code of Tendering AS 4120-1994, the tenders were assessed by an evaluation committee using a weighted multi-criterion assessment system. The specification was not detailed enough in the requirements for customer service to enable tenderers to submit offers that met all the requirements of the City.

The tenders were assessed in accordance with *Regulation 18(4)* of the *Local Government (Functions & General) 1996* which states:

‘Tenders that have not been rejected under sub regulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept’.

Under the *Local Government (F&G) Regulations 1996* ‘Choice of Tender’ Clause 5 states:

“The local government may decline to accept any tender”.

In summary, although the tenders are technically complying, the City cannot comparatively assess them due insufficient information in regards to the requirements for customer service being provided in the tender specification. The City may decline to accept the tenders on this basis.

The current arrangement whereby the City of Wanneroo provides the service on an as requested basis as part of its Service Agreement for the Supply of Domestic Refuse Collection Services will continue. This agreement is required to be reviewed over the next few months.

Policy 2.5.7 Purchasing Goods and Services

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process. None of the tenders for the supply of MGBs were received from local businesses.

Statutory Provision:

Requirements to provide the service under the Health Act 1911

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.

Policy Implications:

None

Financial Implications:

Supply of MGBs

Account No:	6510 4503 0001 9999
Budget Item:	Plant and equipment purchase minor
Budget Amount:	\$167,750
Actual Cost:	\$116,290

COMMENT

The tender submitted by Sulo Pty Ltd for Option one for the supply of MGBs was identified as the most favourable tender for the Council to accept and is accordingly the recommended tenderer. The term of the contract is for an initial period of twelve (12) months with the option to extend for a further twelve (12) month period based on performance. The total aggregated duration of the Contract period shall not exceed two (2) years

To ensure fairness and equality in the tender process, it is proposed that the City decline to accept any tender for Option two for the storage, delivery and repair of MGBs. The current arrangement whereby the City of Wanneroo provides the service on an as requested basis as part of its Service Agreement for the Supply of Domestic Refuse Collection Services will continue. This agreement is required to be reviewed over the next few months.

ATTACHMENTS

Attachment 1 Schedule of rates option one Sulo Pty. Ltd.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Brewer, SECONDED Cr Mackintosh that Council:

- 1 ACCEPTS the tender from Sulo MGB Australia Pty Ltd Contract Number 004-03/04 for Option one for the supply of mobile garbage bins in accordance with the schedule of rates;**
- 2 DECLINES to accept any tender for Option two for the provision of storage, delivery and repairs of mobile garbage bins, tender number 004-03/04.**

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf251103.pdf](#)

**CJ274 - 12/03 TENDER NUMBER 013-03/04 SUPPLY AND
DELIVERY OF PRECAST STORMWATER
DRAINAGE PIPES AND FITTINGS – [17548]**

WARD - All

PURPOSE

To seek Council approval to accept the tenders submitted by Rocla Pipeline Products and Wembley Cement for the Supply and Delivery of Precast Stormwater Drainage Pipes and Fittings in accordance with the Schedule of Rates for Tender Number 013-03/04, for a maximum period of three years, subject to annual review and satisfactory performance.

EXECUTIVE SUMMARY

Tenders were advertised on 17 September 2003 through statewide public tender for the Supply and Delivery of Precast Stormwater Drainage Pipes and Fittings. Tenders closed on 9 October 2003. Four submissions were received from: Rocla Pipeline Products, Icon Industries Pty Ltd, Ready Mix Holdings Pty Ltd and Wembley Cement.

It is recommended that Council ACCEPTS the tenders from Wembley Cement and Rocla Pipeline Products for the Supply and Delivery of Precast Stormwater Drainage Pipes and Fittings in accordance with the schedule of rates (as outlined in Attachments 1 and 2 to this Report) and subject to annual performance reviews for a maximum period of three years commencing on 1 January 2004 to 31 December 2006.

BACKGROUND

Advertising this tender 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.

DETAILS

Under the City's Contract Management Framework, the tenders were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4121-1994 'code of ethics and procedures for the selection of consultants'.

Each member of the Evaluation Team assessed the Tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments, leading to a ranking of each submission in an order of merit.

The Selection Criteria for this tender was as follows:

Resources and Experience of Tenderer in providing similar services:

- Relevant Industry Experience, including details of providing similar supply. Tenderers shall submit a Detailed Schedule of previous experience on similar and/or relevant projects.
- Past Record of Performance and Achievement with a Local Government.
- Past Record of Performance and Achievement with other clients.
- Level of Understanding of tender documents and work required.
- References from past and present clients.
- Ability to provide usage and expenditure information.
- Ability to provide electronic pricing schedules

Levels of Service as determined by the Capability/Competence of Tenderer to perform the work required:

- Company Structure
- Qualifications, Skills and Experience of Key Personnel
- Equipment and Staff Resources available

Beneficial Effects of Tender/Local Content:

- The Potential Social and Economic Effect of the tender on the City of Joondalup community

Tendered Price/s:

- The Price to supply the specified goods or services
- Schedule of Rates for additional goods or services, variations and disbursements
- Discounts, settlement terms

No tenderer priced all the required products listed in the Schedule of Rates. Accordingly it is recommended to award the contract to two tenderers who between them is able to supply all the required products. The two tenderers Rocla Pipeline Products and Wembley Cement were the top two ranked tenderers.

Statutory Provision:

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.

Policy 2.5.7. Purchasing Goods and Services

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process; none of the tenders received were from organisations located in Joondalup.

Financial Implications:

Expenditure is in accordance with the Operations Services annual Maintenance and Capital Works Budgets as authorised by Council.

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.

Subject to Council approval, the Contract will commence from 1 January 2004 for a maximum period of three years, subject to satisfactory annual performance reviews. A Contract 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 awarded to a maximum, comprising a three-year term.

Between them, Wembley Cement and Rocla Pipeline Products are able to supply all the required items on the Schedule of Rates and demonstrated that they have the ability to provide best value for money based on the selection criteria and the outcome of the tender evaluation.

Extracts from the schedules of rates have been provided under Attachments 1 and 2.

ATTACHMENTS

Attachments 1 and 2 Schedule of Rates extracts

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Walker, SECONDED Cr Brewer that Council ACCEPTS the tenders from Wembley Cement and Rocla Pipeline Products for the Supply and Delivery of Precast Stormwater Drainage Pipes and Fittings in accordance with the Schedule of Rates (as outlined in Attachments 1 and 2 to Report CJ274-12/03) and subject to annual performance reviews for a maximum period of three years commencing on 1 January 2004 to 31 December 2006.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf251103.pdf](#)

Request for Cr Baker to be Heard

Cr Kimber requested that Mayor Carlos review his decision made earlier in the meeting that, under Clause 4.1.15 of the City's Standing Orders Local Law, Cr Baker not be heard for the remainder of the Council meeting.

Mayor Carlos withdrew his earlier decision and permitted Cr Baker to participate in debate, on the provision that Cr Baker apologise. Cr Baker apologised to the meeting.

**CJ275 - 12/03 TENDER NUMBER 014-03/04 – QUANTITY
SURVEYOR CONSULTANCY SERVICES – [69548]**

WARD - All

PURPOSE

To seek approval to accept the tender submitted by Ralph Beattie Bosworth Pty Ltd to provide Quantity Surveyor Consultancy Services to the City for a period of three (3) years in accordance with the Price Schedule (Refer Attachment 1).

EXECUTIVE SUMMARY

Tender No 014-03/04 for the provision of Quantity Surveyor Consultancy Services was advertised through statewide public tender on Wednesday 20 August 2003 and closed on Thursday 4 September 2003.

It is recommended That Council ACCEPTS the tender from Ralph Beattie Bosworth Pty Ltd, Contract No 014-03/04 for the provision of Quantity Surveyor Consultancy Services to the City for a period of three (3) years in accordance with the Price Schedule forming Attachment 1 to this Report.

BACKGROUND

To assist the City in the proper planning and management of capital projects the use a Quantity Surveyor is essential. On a number of occasions in the past tenders have been called only to find after they close that sufficient funds have not been allocated for the specified works to proceed. The use of a Quantity Surveyor will ensure more certainty as to market costs for capital works prior to inviting tenders by providing:

- Cost estimates for proposed works;
- Detailed cost plans;
- Price schedules;
- Cash flow forecasts;
- Detail Bill of Materials (quantities);
- Assist in development of construction program; and
- Certification of completed works.

The services will also be utilised in developing business cases and for initial project planning where accurate estimates will help the City in the decision making process. The services of the Quantity Surveyor may also be used for the monitoring of capital works expenditure.

Additionally, a number of corporate projects are now at the stage where the services of a Quantity Surveyor are required; such as the New Works Depot. The services are an integral part of the design process in ensuring designs are consistent with budget allocations and to highlight potential shortfalls early in the process.

A Request for Tender (No. 014-03/04) for the provision of Quantity Surveyor Consultancy Services was advertised by the City of Joondalup on Wednesday 20 August 2003.

DETAILS

The Tender period closed on Thursday 4 September 2003. Six (6) tenders were received from:

- Ralph Beattie Bosworth Pty Ltd;
- Currie & Brown
- Rider Hunt WA Pty Ltd;
- Davis Langdon Australia;
- WT Partnership Aust. Pty Ltd; and
- RAR & P Nominees Pty Ltd.

Under the City's Contract Management Framework, the tenders were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4121-1994 'code of ethics and procedures for the selection of consultants'.

Each member of the Evaluation Team assessed the Tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments, leading to a ranking of each submission in an order of merit.

The Selection Criteria for this tender was as follows:

Levels of Service as determined by the Capability/Competence of Tenderer to perform the work required:

- Company Structure
- Qualifications, Skills and Experience of Key Personnel who will be involved in this contract
- Equipment and Staff Resources available
- Financial Capacity
- Compliance with tender requirements – insurances, licenses etc
- Quality Systems

Performance and Experience of Tenderer in completing similar projects:

- Relevant Industry Experience, including details of similar work undertaken. Tenderers shall submit a Detailed Schedule of Previous Experience on similar and/or relevant contracts.
- Past Record of Performance and Achievement with Local Government organisations
- Past Record of Performance and Achievement with other clients
- References from past and present clients

Beneficial Effects of Tender/Local Content:

- The Potential Social and Economic Effect of the tender on the City of Joondalup community
- The Potential Social and Economic Effect of the tender on the West Australian community
- Infrastructure/Office/Staff/Suppliers/Sub-Contractors within the City of Joondalup
- Value Added items offered by tenderer

Contract Methodology:

- Detail the procedures and process you intend to use to achieve the requirements of the Specification.
- Highlight key points of difference offered by your firm.

Overall the quality of the submissions received was high and the price schedules competitive. It was clear to the Evaluation Team that the submission offered by Ralph Beattie Bosworth Pty Ltd was the most favourable to the City based on their demonstrated understanding of the requirements of the contract and their competitive Price Schedule to provide the required services (Attachment 1 – Price Schedule).

Statutory Provision:

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.

POLICY 2.5.7 PURCHASING GOODS AND SERVICES

The City's policy on purchasing goods and services encourages the participation of local businesses in the purchasing and tendering process. None of the Tenderers were local businesses.

Financial Implications:

Funds required for this contract are available in various capital budgets on a per project basis. The fees for appointment can be based either on hourly rates listed in the Price Schedule or a lump sum fee in line with the fee percentages in the Price Schedule. The lump sum fee will be based on the value of the works such as the construction cost of a building and will be confirmed prior to the commencement of the consultancy work.

COMMENT

In evaluating the Tender documents, the weighted matrix and the Price Schedules, the Evaluation Team recommends that Ralph Beattie Bosworth Pty Ltd be nominated as the preferred consultancy due to:

- Highest rating proposal in relation to the selection criteria;
- A competitive Price Schedule;
- Proposal conformance and detail;
- Demonstrated understanding of the City of Joondalup's requirements; and
- A clearer and best suited methodology process.

ATTACHMENTS

Attachment 1 Price Schedule

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Brewer, SECONDED Cr Walker that Council ACCEPTS the tender from Ralph Beattie Bosworth Pty Ltd, Contract No 014-03/04 for the provision of Quantity Surveyor Consultancy Services to the City for a period of three (3) years in accordance with the Price Schedule forming Attachment 1 to Report CJ275-12/03.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf251103.pdf](#)

**CJ276 - 12/03 TENDER NUMBER 017-03/04 SUPPLY AND
DELIVERY OF DESKTOP AND NOTEBOOK
COMPUTERS – [21550]**

WARD - All

PURPOSE

To seek Council approval to accept the tender submitted by ComputerCORP Pty Ltd for the Supply and Delivery of Desktop and Notebook Computers in accordance with the Schedule of Rates for Tender Number 017-03/04, for a maximum period of three years, subject to annual review and satisfactory performance.

EXECUTIVE SUMMARY

Tenders were advertised on 24 September 2003 through statewide public tender for the Supply and Delivery of Desktop and Notebook Computers. Tenders closed on 9 October 2003. Eleven submissions were received from: Abacus Computer Technology, CDM, Command-A-Com Pty Ltd, ComputerCORP Pty Ltd (Including White Box Submission), Dell Corp Pty Ltd, JH Computer Services, PT Computer Professionals, Thames Computer Group, TPG and WJ Moncrieff Pty Ltd.

It is recommended that Council:

- 1 *ACCEPTS the tender from ComputerCORP Pty Ltd for the Supply & Delivery of Desktop and Notebook Computers in accordance with the schedule of rates (as outlined in Attachment 1 to this Report) and subject to annual performance reviews for a maximum period of three years commencing on 15 December 2003 to 14 December 2006;*
- 2 *AUTHORISES the execution of the contract documents under common seal.*

BACKGROUND

The City's personal and notebook computers are currently replaced under a three-year rolling replacement program. Under this program up to one third of PC's are replaced each year. This is based on the IT industry standard of three years useful life for a PC in a business environment.

The rolling nature of the PC replacement program is designed to keep the City's inventory of PC's at an appropriate standard to operate the necessary corporate systems, to keep all equipment current and under full warranty, and also to spread funding needs over multiple years.

For the 2003/2004 financial years 134 Personal computers and 13 Notebook computers have been scheduled for replacement.

DETAILS

Under the City's Contract Management Framework, the tenders were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4121-1994 'code of ethics and procedures for the selection of consultants'.

Each member of the Evaluation Team assessed the Tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments, leading to a ranking of each submission in an order of merit.

The Selection Criteria for this tender was as follows:

Performance and Experience of Tenderer in providing similar services:

- Past record of Performance and Achievement with other clients
- Level of understanding of tender documents and work required
- References from past and present clients
- Service capability for size of contract
- Service response options offered
- Contractors stock levels and availability

Levels of Service as determined by the Capability/Competence of Tenderer to perform the work required:

- Company Structure
- Qualifications, Skills and experience of Management capability
- Equipment and Staff resources available.
- Percentage of Operational Capacity represented by this work.
- Financial Capacity
- Risk Assessment
- Compliance with tender requirements
- Post Contract Services offered
- Extent of Local Support

Beneficial Effects of Tender/Local Content:

- The Potential Social and Economic Effect of the tender on the City of Joondalup community
- The Potential Social and Economic Effect of the tender on the West Australian community
- Infrastructure / Office / Staff / Suppliers / Sub Contractors within the City of Joondalup
- Sustainability / Efficiency / Environmental

Quality of equipment and services offered

- Qualifications, Skills and experience of Technicians
- Quality systems
- Customer service
- Value added items and services offered
- Warranties offered
- Uniformity of components for specific batch of order
- Product Lifecycle
- Proven performance of goods offered
- Turn around time for products under repair
- Maintenance call logging

Tendered Price/s:

- The Price to supply the specified goods or services
- Schedule of Rates for additional goods or services, variations and disbursements
- Discounts, settlement terms

Statutory Provision:

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 to \$100,000.

Policy 2.5.7 Purchasing Goods and Services

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process; of the tenders received, none of the Tenderers were located in Joondalup.

Financial Implications:

Account No: 1.3840.4501.0001.J024
Budget Item: Corporate PC Replacement Program
Budget Amount: \$300,000

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.

Subject to Council approval, the Contract will commence from 15 December 2003 for a maximum period of three years, subject to satisfactory annual performance reviews. A Contract 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 awarded to a maximum, comprising a three-year term.

ComputerCORP Pty Ltd completed the Schedule of Rates and demonstrated that they have the ability to provide best value for money based on the selection criteria and the outcome of the tender evaluation.

ATTACHMENTS

Attachment 1 Schedule of Rates extract

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Prospero, SECONDED Cr Mackintosh that Council:

- 1 ACCEPTS the tender from ComputerCORP Pty Ltd for the Supply & Delivery of Desktop and Notebook Computers in accordance with the schedule of rates (as outlined in Attachment 1 to Report CJ276-12/03) and subject to annual performance reviews for a maximum period of three years commencing on 15 December 2003 to 14 December 2006;**
- 2 AUTHORISES the execution of the contract documents under common seal.**

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf251103.pdf](#)

CJ277 - 12/03 METROPOLITAN REGIONAL ROAD PROGRAM 2003/2004 TO 2004/2005 – [06759] [06056]

WARD - All

PURPOSE

This report outlines information about projects submitted to Main Roads WA for the 2003/2004 to 2004/05 Metropolitan Regional Road Program and recent developments in funding the dual carriageway construction of Joondalup Drive from Lakeside Drive to the City Boundary.

EXECUTIVE SUMMARY

Main Roads WA sought submissions for the 2003/2004 & 2004/2005 Metropolitan Regional Road Program for Improvement Projects and Rehabilitation Projects in May 2002 and 2003. Some previously approved 2003/04 projects have now been delayed due to forecast cost over-runs and environmental approvals. As a result, additional funds have become available that affect the City's submission of the dualling of Joondalup Drive, Lakeside Drive to Eastern Boundary, Joondalup.

This report outlines recent developments to the funding of roadworks for those years and recommends a course of action for Council to bring forward the construction of Joondalup Drive, subject to a commitment that the City will fund its component of the project in the 2004/05 Capital Works Program.

This report recommends that Council:

- 1 ENDORSES the Metropolitan Regional Road Program (MRRP) project for the construction of the second carriageway of Joondalup Drive - Lakeside Drive to east of Burns Beach Road roundabout (City Boundary), as shown in Attachment 1 and Attachment 2 of this report;
- 2 NOTES that the total project budget is \$2,031,260 in which the State Government contributes two thirds to the City's one third in accordance with the following funding arrangements as outlined in the table below:

Year	City contribution	State Govt. contribution via the MRRP program	Total
2003/2004	0	\$354,172	\$354,172
2004/2005	\$677,088	\$1,000,000	\$1,677,088
Total	\$677,088	\$1,354,172	\$2,031,260

- 3 LISTS as a high priority for consideration in the 2004/05 Capital Works budget an amount totalling \$677,088, noting that the advanced funds of \$354,172 will be spent in 2003/04, and if Council's contribution of \$677,088 is not made available in the 2004/05 Capital Works budget, then the original advance of \$354,172 will need to be repaid by the City.

BACKGROUND

Each year, Main Roads WA (MRWA) invites project submissions for consideration as part of the Metropolitan Regional Road Program. Main Roads WA requests project submissions up to 12 months in advance to allow Councils to program approved projects into their Budgets with certainty of grant funding.

In May 2002, the City submitted the dualling of Joondalup Drive, Lakeside Drive to Eastern Boundary as an Improvement Project in the 2003/04 Metropolitan Regional Road Program. The State Government reduced funding of the whole MRRP program for that year and the project did not receive a grant.

The project was submitted again in May 2003 for the 2004/05 Metropolitan Regional Road Program with a construction cost of \$2,031,260.

All projects are submitted to a Metropolitan Regional Road Group Members Committee comprised of elected representatives (Councillors), technical members (City Engineers) and Main Roads representatives. This committee reviews projects and schedules and makes recommendations to the State Road Funds to Local Government Advisory Committee which in turn reports to the Minister of Transport to confirm funding of nominated projects.

Strategic Plan

These projects fall under the Key Focus Area of City Development and the Objective to develop and maintain the City of Joondalup's assets and built environment (3.1).

DETAILS

The Road Improvement Project submitted by the City for the 2003/2004 and 2004/05 Metropolitan Regional Road Program was Joondalup Drive – Lakeside Drive to Burns Beach Road East (City Boundary) as detailed on Attachment 1.

Some previously approved 2003/04 projects have now been delayed due to forecast cost overruns and environmental and other approvals. As a result, additional funds have become available that affect the City's 2003/04 and 2004/05 submission of the dualling of Joondalup Drive.

The Metropolitan Regional Road Group Members Committee has now recommended that projects that cannot be delivered because of extensive delays and construction has not commenced, will lose funding and that amount be returned to the MRRP pool. This has worked to the City's advantage as it has recommended that a portion of the returned funding be expended on Joondalup Drive.

This now means that the project will receive MRRP grant funding of \$354,172 in 2003/04 and will be committed to a grant of \$1,000,000 in 2004/05. Refer to Attachment 2 to see costing details. However, the City needs to confirm its commitment to funding the 2004/05 component of the project in the 2004/2005 Capital Works Program. The amount of \$677,088 will be listed in the 2004/05 year of the Major Road Construction Program as part of the Draft 2004/2005 Five Year Capital Works Budget.

The 2003/04 grant funding of \$354,172 will be used for design and documentation of the project and construction activities clear of the existing pavement to minimise traffic control costs such as clearing, earthworks and stormwater installation. The project will be constructed by contract and be timed to coincide with the end of the 2003/04 and start of the 2004/05 financial years to ensure continuity of funding for contract payments.

Statutory Provisions

The funds for these programs come from the State Road Funds to Local Government Agreement. There are no statutory provisions applicable to the funds application but there are procedural requirements for grant recoup and acquittal of the funds.

Policy Implications

There are no policy implications.

Financial Implications

The successful grant funding of the road improvement project will require Council to allocate funds in the 2004/05 Capital Works Program – Major Road Construction. The grants are provided on the basis of a two thirds contribution by Main Roads WA to one third by the City. Therefore, the project split of \$1,354,176 MRRP funding and \$677,088 City funding is not negotiable but is highly favourable to the City. Because the State Government is trying to reduce the backlog of funding to stalled or cancelled projects it has advanced \$354,172 in the first year of the project (2003/04) without a contribution from the City and expects the City's full contribution of \$677,088 in 2004/05. The project is not listed at this time in the 2003/04 Five Year Capital Works Program because information as recent as 2 months ago suggested that funding would more than likely occur in 2005/06. And even then, it would still be subject to prioritisation and competition with many other similar projects across the metropolitan area.

This project will now be listed in the Major Road Construction Program in the Draft 2004/05 Five Year Capital Works Budget with committed MRRP funding in 2004/05.

Strategic Implications

The projects fit into the Strategic Plan for the City by improving infrastructure which leads to an improved lifestyle. Under the MRRP program, the dualling of multi-million dollar arterial road projects such as Joondalup Drive, can be undertaken using an external funds source, and include upgrading junction treatments, installing bus embayments and adding smooth asphalt seal to reduce traffic noise on an existing chip seal carriageway. The major benefit for the community is a more efficient road network, reduced travel times, less crashes and easier access to facilities.

COMMENT

The Metropolitan Regional Road Program is administered by Main Roads WA using well established formulae, conditions and procedures that are outlined in State Road Funds to Local Government Agreement. The City has received grant funding in the past from the

program, eg Shenton Avenue dualling - Marmion Avenue to Joondalup Drive. Given the financial constraints on the City's capital works program (including corporate projects) and that the State Government has cut back on funding the MRRP program, it is rare opportunity to construct the project 2 years ahead of schedule and mitigate the traffic problems and safety considerations on this section of road.

It is recommended that Council approve the funding arrangements detailed on Attachment 2 and agree to the commitment to fund its component of the project cost in 2004/05.

VOTING REQUIREMENTS

Absolute Majority

MOVED Cr Kimber, SECONDED Cr Prospero that Council:

- 1 ENDORSES the Metropolitan Regional Road Program (MRRP) project for the construction of the second carriageway of Joondalup Drive - Lakeside Drive to east of Burns Beach Road roundabout (City Boundary), as shown in Attachment 1 and Attachment 2 of Report CJ277-12/03;**
- 2 NOTES that the total project budget is \$2,031,260 in which the State Government contributes two thirds to the City's one third in accordance with the following funding arrangements as outlined in the table below:**

Year	City contribution	State Govt. contribution via the MRRP program	Total
2003/2004	0	\$354,172	\$354,172
2004/2005	\$677,088	\$1,000,000	\$1,677,088
Total	\$677,088	\$1,354,172	\$2,031,260

- 3 LISTS as a high priority for consideration in the 2004/05 Capital Works budget an amount totalling \$677,088, noting that the advanced funds of \$354,172 will be spent in 2003/04, and if Council's contribution of \$677,088 is not made available in the 2004/05 Capital Works budget, then the original advance of \$354,172 will need to be repaid by the City.**

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (13/0)**

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

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8brf251103.pdf](#)

Cr Gollant declared a financial interest in Item CJ278-12/03 – Close of Advertising – Amendment No 17 to District Planning Scheme No 2 – Location 13649 (52) Marri Road, Duncraig (Rezoning from Business R20 to Residential R40) as the proposal is adjacent to her property.

Cr Gollant left the Chamber at this point, the time being 2134 hrs.

CJ278 - 12/03 CLOSE OF ADVERTISING - AMENDMENT NO 17 TO DISTRICT PLANNING SCHEME NO 2 – LOCATION 13649 (52) MARRI ROAD, DUNCRAIG (REZONING FROM BUSINESS R20 TO RESIDENTIAL R40) – [29540] [41927]

WARD - South Coastal

PURPOSE

The purpose of this report is for Council to:

- 1 Consider public submissions following advertising of Amendment 17 to the City's District Planning Scheme No 2 (DPS2);
- 2 Rescind point 3 and 4(a) of its resolution of 29 April 2003 to report CJ099 – 04/03 relating to the requirements associated with shared vehicular access arrangements with the adjoining Duncraig Shopping Centre site;
- 3 Consider granting final approval to Amendment 17 without modification; and
- 4 Endorse and submit the amendment document to the Hon Minister for Planning and Infrastructure for final approval to be granted.

EXECUTIVE SUMMARY

Council at its meeting on 29 April 2003 (CJ099 – 04/03 refers) resolved to initiate Amendment 17 to DPS2 for the purposes of advertising.

Upon closure of the advertising period, six (6) submissions were received (refer Attachment 3). Five (5) of the submissions were comments from service providers and government agencies and one (1) from the manager of the Ampol Service Station in Marri Road.

Of the six (6) submissions, five (5) are considered to be statements of non-objection and one (1) submission did raise concerns regarding the traffic implications at the entry to the subject site if the proposed amendment is approved.

Council is requested to consider a revision to the proposed vehicular access arrangements to the subject lot, with the rationale behind the review outlined within the 'comment' section of this report.

It is recommended that the amendment be granted final approval without modification, endorsed and submitted to the Hon Minister for Planning and Infrastructure for final approval to be granted.

BACKGROUND

Suburb/Location:	Loc 13648 (52) Marri Road, Duncraig
Applicant:	Taylor Burrell Town Planning and Design
Owner:	Alfonso Pelliccione & Sakar Pty Ltd
Zoning:	DPS: Business
	MRS: Urban
Coding:	R20
Strategic Plan:	Strategy 3.3.1 – Provide residential living choices.

Previous Council Decisions

Council at its meeting on 29 April 2003 (CJ099 – 04/03 refers) resolved;

- 1 In pursuance of Section 7 of the Town Planning and Development Act 1928, AMENDS the City of Joondalup's District Planning Scheme No 2 for the purpose of rezoning Location 13649 (SN 52) Marri Road, Duncraig from 'Business' to 'Residential', with a residential density code change from 'R20' to 'R40';
- 2 ADOPTS the amendment as suitable for the purpose of advertising for a period of 42 days;
- 3 ADVISES the owner of the subject lot, being No. 52 (Loc 13649) Marri Road, Duncraig and the shopping centre landowner, being No. 50 (Lot 703) Marri Road, Duncraig that a legal agreement shall be entered into with the City to ensure reciprocal rights of access over portion of the shopping centre landowners land in order to provide legal vehicular access to future residential development over the subject lot. This will be required prior to Council's consideration of the amendment after advertising, as the subject lot can not obtain its own gazetted road frontage to Marri Road due to traffic engineering constraints primarily caused by existing topography;
- 4 ADVISES both the applicant and the landowner of the following matters required to facilitate sound urban design and development outcomes for future subdivision and development upon the site;
 - (a) the landowner shall modify the existing vehicular crossover and portion of the rear service laneway adjoining the subject lot to facilitate two-way traffic movement to the subject lot and to maintain one-way operation of the rear service laneway. Future vehicular access from this crossover and portion of the rear service laneway into the subject lot will need to be carefully designed to ensure appropriate vehicular access/egress is provided to the subject lot to the satisfaction of the City of Joondalup;
 - (b) both the applicant and the landowner are advised that in addition to the provisions of the City's DPS2, Residential Design Codes 2002 and WAPC policy DC2.2 – Residential Subdivision, any future subdivision and development of the subject lot must comply with the provisions of the City's policy 3.2.6 - Subdivision and Development Adjoining Areas of Public Space.

DETAILS

The amendment applies to the land described as Loc 13649, Marri Road, Duncraig (refer Attachment 2). The amendment is sought to facilitate the future construction of five (5) grouped dwellings upon the site. Each grouped dwelling is expected to be of two-storey construction, with courtyard areas and habitable rooms addressing the adjoining primary school in order to provide increased security through passive surveillance (refer Attachment 1).

The amendment determines the zoning and density and thus guides future development upon the lot. It should be noted that other planning processes are required to be undertaken upon finalisation of the amendment process. This includes the planning (development) application approval process and the building licence approval process.

Statutory Provision:

The Town Planning Regulations 1967 set out the procedure for amendments to a Town Planning Scheme. The procedure is summarised within Attachment 4 to this report.

Under provision 17(2) of the Regulations, Council shall consider all submissions received during the advertising period. After considering all submissions, the Council shall either resolve to not proceed with the amendment or adopt the amendment, with or without modifications, and to submit three copies of the amendment document to the WAPC for recommendation to the Hon Minister for Planning and Infrastructure to grant final approval.

Consultation:

The scheme amendment was advertised from 11 June 2003 to 23 July 2003. Advertising was in the form of a sign erected on site, adjoining landowners being notified in writing and advertisements placed in the West Australian (11 June 2003) and the Joondalup Community Newspaper (12 June 2003).

A total of six (6) submissions was received during the advertising period (refer Attachment 3 - schedule of submissions). Five (5) of the submissions were comments from service providers and government agencies and one (1) from the manager of the Ampol Service Station in Marri Road, who is also a local resident (refer attachment 3).

Of the six (6) submissions, five (5) did not raise any objection and one (1) submission raised concerns regarding the traffic implications at the entry to the subject site if the proposed amendment is approved.

A separate vehicular access point directly onto Marri Road is now intended for the subject lot and as such, the submission that raised concern with respect to traffic implications caused by the shared use of the existing service driveway and crossover associated with the shopping centre is no longer relevant.

It should be noted that the shopping centre landowner did not lodge a submission during the advertising period yet did write to the City prior to the advertising period commencing, stating that whilst they had no objection to the proposed amendment, the landowner did not support the sharing of their rear service laneway nor the shopping centre lot being encumbered with a legal agreement as a result of the shared access arrangement.

Strategic Implications:

The proposal is sympathetic to objective 3.3 of the City's Strategic Plan 2003-2008 that seeks to 'continue to meet changing demographic needs'. Strategy 3.3.1 is also relevant in that the proposal seeks to 'provide residential living choices' through an increase in the residential density applicable to the land.

COMMENT

Vehicular Access Review

At the applicant's request, the City reviewed the existing traffic engineering and topographical constraints that previously did not allow separate vehicular access to the subject lot from Marri Road. As a result of the review, it is now considered acceptable that the subject lot obtain its own vehicular access directly onto Marri Road in the vicinity of the lots western boundary, and not via the existing service driveway associated with the shopping centre which was proposed previously (refer attachment 1). The rationale behind the City's decision to reconsider the vehicular access situation and allow the subject lot to obtain its own vehicular access point directly onto Marri Road is as follows;

- Commercial development and landuses previously envisaged for the subject lot are no longer proposed and as such, significantly less vehicular movement is expected to be generated by the proposed residential development and landuse upon the lot;
- The shopping centre landowner has advised the City that it does not support their lot being encumbered with a legal agreement with respect to shared vehicular access; and
- The proposed vehicular access point directly onto Marri Road in the vicinity of the lot's western boundary meets the required engineering and traffic safety/vehicular sightline standards.

Therefore, Council is required to rescind point 3 and 4(a) of its resolution of 29 April 2003 to report CJ099 – 04/03 as both related to the shared vehicular access arrangement between the subject lot and the adjoining shopping centre lot that is no longer required.

The location and configuration of the separate vehicular access point onto Marri Road shall be assessed against the provisions of the Residential Design Codes of Western Australia 2002 during the planning (development) application approval process for future residential development upon the subject lot.

ATTACHMENTS

Attachment 1	Revised indicative development plan
Attachment 2	Site plan
Attachment 3	Schedule of Submissions
Attachment 4	Scheme Amendment process flowchart

VOTING REQUIREMENTS

Absolute Majority

MOVED Cr Kimber, SECONDED Cr Walker that Council:

- 1 RESCINDS that part of Point 3 and 4(a) of its resolution of 29 April 2003 to Report CJ099–04/03, viz”**

“ADVISES the owner of the subject lot, being No 52 (Loc 13649) Marri Road, Duncraig and the shopping centre landowner, being No 50 (Lot 703) Marri Road, Duncraig that a legal agreement shall be entered into with the City to ensure reciprocal rights of access over portion of the shopping centre landowner’s land in order to provide legal vehicular access to future residential development over the subject lot. This will be required prior to Council’s consideration of the amendment after advertising, as the subject lot cannot obtain its own gazetted road frontage to Marri Road due to traffic engineering constraints primarily caused by existing topography; and

ADVISES both the applicant and the landowner of the following matters required to facilitate sound urban design and development outcomes for future subdivision and development upon the site;

(a) the landowner shall modify the existing vehicular crossover and portion of the rear service laneway adjoining the subject lot to facilitate two-way traffic movement to the subject lot and to maintain one-way operation of the rear service laneway. Future vehicular access from this crossover and portion of the rear service laneway into the subject lot will need to be carefully designed to ensure appropriate vehicular access/egress is provided to the subject lot to the satisfaction of the City of Joondalup;”

- 2 Pursuant to Town Planning Regulations 17 (2) ADOPTS Amendment No 17 to the City of Joondalup District Planning Scheme No 2 without modification;**
- 3 AUTHORISES the affixation of the Common Seal to, and endorses the signing of, the amendment documents;**
- 4 NOTES all submissions received during the advertising period;**
- 5 ADVISES all persons who made submissions of Council’s decision accordingly.**

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (12/0)**

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

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf251103.pdf](#)

Cr Gollant entered the Chamber at this point, the time being 2135 hrs.

Cr Baker declared a financial interest in Item CJ279-12/03 – Proposed Mixed Use Development (Commercial and Residential Units) at Lot 495 (167) Grand Boulevard, cnr Boas Avenue, Joondalup because he has an interest in a block of land located immediately directly next to the proposed development site.

Cr Brewer declared a financial interest in Item CJ279-12/03 – Proposed Mixed Use Development (Commercial and Residential Units) at Lot 495 (167) Grand Boulevard, cnr Boas Avenue, Joondalup as this development is in close proximity to Cr Brewer's residence.

Crs Baker and Brewer left the Chamber at this point, the time being 2136 hrs.

**CJ279 - 12/03 PROPOSED MIXED USE DEVELOPMENT
(COMMERCIAL AND RESIDENTIAL UNITS) AT
LOT 495 (167) GRAND BOULEVARD, CNR BOAS
AVENUE, JOONDALUP – [37738]**

WARD - Lakeside

PURPOSE

The development proposal is referred to Council for determination as it is a significant development within the Joondalup City Centre. Discretion is also sought in relation to the height of the building.

EXECUTIVE SUMMARY

An application has been received for a 4 storey building (ground level plus 3 storeys) comprising 600m² of commercial space and 61 residential units at Lot 495 (167) Grand Boulevard, Joondalup.

Discretion is sought in regard to the height of the building, which exceeds the desirable height prescribed by the Joondalup City Centre Development Plan and Manual (JCCDPM).

The development represents a significant development for the City Centre. The site is ideally located in terms of its close proximity to all the facilities available in the City, and is compatible with the City Centre environment. The proposal represents a landmark, creating an urban wall with active interfaces on three frontages.

Council has approved a number of different proposals for this site over the past few years. The foreshadowed hotel development is no longer proceeding.

Traffic, pedestrian movements, car parking and aesthetic design elements have been adequately addressed by the design. There is a car-parking shortfall of 11 bays. The applicant has advised that the developer is seeking to pay cash in lieu for the shortfall.

Given that the subject site is a prominent corner in the City, the variation for the height of the building is supported. It is recommended that Council exercises discretion under District Planning Scheme No 2 (DPS2) and approves the proposal.

BACKGROUND

Suburb/Location:	Lot 495 (165) Grand Boulevard/Cnr Boas Avenue Joondalup
Applicant:	Cameron, Chisholm and Nicol
Owner:	Kyme Holdings Pty Ltd
Zoning:	DPS: Centre
	MRS: Central City Area

The above site is located on the southeast corner of Grand Boulevard and Boas Avenue, Joondalup. The site falls within the Central Business District within the Joondalup City Centre zone where the preferred uses are office, retail, accommodation, residential, leisure and entertainment, cultural facilities, commercial service facilities, medical suites, Council administration, civic centre, law courts and police facilities.

Development within the area is subject to the provisions of City of Joondalup District Planning Scheme No 2 (DPS2) and the JCCDPM.

The subject lot is 3014m² and has been subdivided from a larger original lot (9363m²) to the south that accommodates the Madison Apartment complex. It was a requirement of the subdivision that an easement for vehicle access along Grand Boulevard be created that straddles both properties. Vehicle access to the proposal is via the easement.

DETAILS

The proposal includes the following features:

- A four level building with tower elements on the north-western and north-eastern corner of the building.
- Ground floor commercial tenancies providing active frontages along Grand Boulevard, Boas Avenue and Central Walk 600m² of commercial space, made up of three areas, each of which can be divided into smaller tenancies depending on demand.
- Three levels of residential dwellings comprising 61 units (21 one bedroom units, 35 two bedroom units, and 5 three bedroom units)
- All on-site car parking (75 bays) is provided on the ground level. The proposal results in a shortfall in car parking for which the developer intends to pay cash in lieu.
- 66 bays are provided for the residential component (5 bays are in a tandem arrangement), and 9 bays for the commercial component (including 1 disabled bay, and 3 bays in a tandem arrangement).
- Service access for the commercial units is via the car parking area on the ground level.
- Two entrance foyers are located on the ground floor to serve the residential units.
- Lift access is provided to all units except 6 units on the first and second floor, which are walk-ups.
- Each unit is provided with a sizeable balcony and a store located either on the ground floor or on the balcony of the unit.
- A roof garden, barbeque area and gymnasium are contained within the tower element on the north-western corner of the building.

Statutory Provision:

Clause 4.5 of DPS2 allows discretion to be exercised to allow a variation in regard to the restrictions applicable to the height of the proposal along Grand Boulevard, Boas Avenue and Central Walk.

The relevant clause is as follows:

4.5 Variations to Site and Development Standards and Requirements

4.5.1 Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

4.5.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1 and*
- (b) have regard to any expressed views prior to making its decision to grant the variation.*

4.5.3 The power conferred by this clause may only be exercised if the Council is satisfied that:

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*

The non-compliance will not have any adverse affect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality

In exercising discretion under Clause 4.5, the criteria under Clause 6.8 are 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.*

Clause 4.8 allows the City to consider appropriate car parking standards for all types of developments within the City as follows:

4.8 Car Parking Standards

4.8.1 *The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council.*

The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.

Clause 4.11.2, 4.11.3 and 4.11.4 of DPS2 allow Council to accept the payment of cash in lieu of the provision of on-site parking. The clauses are as follows:

4.11.2 *Council may accept a cash payment in lieu of the provisions of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.*

4.11.3 *The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the council shall from time to time determine.*

4.11.4 *Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the localities deemed appropriate by Council.*

In the City Centre the current rate is \$8,100 per bay.

COMMENT

Residential Density

There are no specific residential density requirements in the general city area of the CBD. Initially, a density of R60 applied to all areas affected by the JCCDPM. Subsequently, this was amended to allow a density of R100 for landmark sites. Discretion to higher densities was exercised in regard to all the previous proposals approved for this site. The last approved proposal allowed a density of approximately R145. The proposed density at R179 is considered to be appropriate given that the site is in a prominent location within the city, where high densities are appropriate. The density of the Madison complex is approximately R143, and R159 for the development at 17 Davidson Terrace, Joondalup.

Plot Ratio

A plot ratio of 2.5 applies to the site. Given that only the commercial floorspace is counted toward plot ratio (in this case 600m² of commercial floorspace), the proposal complies with the plot ratio limitations.

Setbacks and Heights

The proposed 'nil' setbacks to Boas Avenue, Grand Boulevard and Central Walk are in accordance with the development requirements for the CBD.

Council's discretion is required in respect to the height of the building facing Grand Boulevard, Boas Avenue and Central Walk. The JCCDPM specifies a maximum height of 13.5 metres along Grand Boulevard and Boas Avenue and a maximum permitted height along Central Walk of 10 metres. Beyond this limit, it is a requirement that the building be recessed along a 60-degree recession plane.

The proposed height of the elevations varies from 14.1 to 14.8 metres (to eaves height) and 16.5 metres (to top of ridge on the tower elements) along Central Walk and Boas Avenue and 15 metres (to eaves height) and 17.4 metres (to top of the tower element) along Grand Boulevard.

The height restrictions were included in the JCCDPM in order to control potential adverse environmental impact upon street spaces from the building form.

However, the subject site is a landmark in the City Centre, and the additional height of the building is considered to contribute to providing a City Centre feel and identity for the CBD. It is also very similar to the height of the Madison complex that borders onto the proposed development along its southern boundary.

The previously approved hotel on the site was also granted a variation to the building height. That particular building was in the order of approximately 18 metres (to eaves height) and approximately 24 metres (to the top of the tower) in height.

It is not considered that the additional height of the building will have any negative impact on the surrounding area, and will in fact have a positive contribution to the CBD. Therefore, a variation of the provisions of the JCCDPM under Clause 4.5 of DPS2 is considered appropriate.

Car Parking

The JCCDPM does not provide carparking standards.

Clause 4.8 of DPS2 provides that Council can determine car parking standards deemed to be appropriate to the use and area of a proposed development. The car parking ratios below are considered to be appropriate for the following reasons:

- The standards have been consistently applied throughout the City, and
- The standards were applied with all the previous approvals that have been granted on this site.

It is recommended the Council exercises discretion under clause 4.8 of DPS2 and applies the following car parking ratios.

Car Parking Table

Use	Parking Provision	No. of Bays Required	No of Bays Provided	Comment
Commercial	1 bay per 30m ² GFA (600 ÷ 30)	20	9 (8 plus 1 disabled bay)	11 bays shortfall
Residential Units	1 bay per unit 61 apartments x 1	61	66	Oversupply of 5 bays. However 5 bays are in tandem and must be allocated to the same dwelling.
Total		81	75	

From the above table it is noted that there is an 11 bay shortfall in the allocation of commercial bays.

The applicant has stated that they are willing to pay for 6 bays cash in lieu. This is on the basis that Council is requested to accept that the oversupply of 5 residential bays can be credited to the undersupply of 11 commercial bays, thereby leaving a shortfall (for cash in lieu purposes) of 6 bays.

In support, the applicant states:

“...our research indicates the requirement of 2 bays for a 3 bedroom dwelling to be essential. In addition our research shows the 8 bays for the commercial space will be accepted by the end user. Accordingly we will not reallocate the residential bays.

We can reduce the parking shortfall by reducing the amount of commercial area. However, we have been encouraged not to do this and to maximise the commercial frontage to Boas Ave and Grand Boulevard.

We would like it to be acknowledged that we are providing a total of 75 car bays. The requirement of parking for the total development is 81 bays. We propose to pay parking in lieu based on a total short fall of 6 parking bays.”

Clause 4.11.3 of DPS2 allows Council to consider a discount in the cash payment required under the cash in lieu provisions. The circumstances of when a discount will be considered is not outlined in DPS2.

While the applicant’s request does not alter the actual on-site provision of car bays, and the development per se will not be affected, the following points are made:

- The purpose of the cash in lieu provisions for the City Centre is to provide a fund for Council to provide public car parking within the City Centre.
- The City would lose \$40,500 in cash in lieu contributions if the applicant’s proposal is accepted by Council.
- The City has not previously granted dispensation to the required provision of cash in lieu payment, and has applied the cash in lieu provision consistently.
- Council’s acceptance of the request may set a precedent for future requests on other developments, given that cash in lieu for parking is not uncommon in the City Centre.

It is considered appropriate that 11 bays cash in lieu be required.

Signage

The only detail that is provided in regard to signs at this stage is the lettering on the tower elements, which is considered to be appropriate. Planning approval will be required for any further signage.

Urban Design

The proposal has been designed to interface with Grand Boulevard, Boas Avenue and Central Walk, as well as complement the Madison Complex along its southern boundary. The subject lot is in a prominent location within the city. The commercial space at street level and the balconies facing onto the street will provide the active frontage required in a city centre. The street façades will include the use of brick, adding visual quality to the development.

The corners of the building have been ‘articulated’ by the use of tower elements, thereby enhancing the visual prominence of the site. Identifiable entrances and pedestrian shelters have also been provided in accordance with the objectives of the JCCDPM.

Overall, the building is functional and meets the design requirements of the JCCDPM.

Conclusion

The proposed development is deemed to comply and satisfy the objectives, urban design criteria, car parking, setbacks and use within DPS2 and the JCCDPM.

The development is considered a landmark development by virtue of its height. It will serve to strengthen the identity of the area as a city centre, without having an adverse impact upon the surrounding areas. The variation to the JCCPM to allow the additional height of the building is supported, and approval is therefore recommended.

ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Development Plan

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION: That Council:

- 1 EXERCISES discretion in relation to clause 4.5 and 4.8 of District Planning Scheme No 2 and the Joondalup City Centre Development Plan and Manual and determines that:
 - (a) a relaxation of the height requirements for buildings facing Grand Boulevard, Boas and Central Walk in recognition of the significance of the site, whereby the height and visibility of buildings facing the streets will create a visually attractive and interesting streetscape, is appropriate in this instance;
- 2 in accordance with the provisions of Clause 4.11 of the District Planning Scheme No 2, ACCEPTS the provision of the payment of cash in lieu of the provision of 11 onsite car bays;

- 3 APPROVES the application dated 10 September 2003 and revised plans received on 28 October 2003 and 4 November 2003 submitted by Cameron, Chisholm & Nicol Architects Pty Ltd on behalf of the owners, Kyme Holdings for a mixed use development comprising of 61 multiple dwellings and 600m² commercial space at Lot 495 (165) Grand Boulevard/Cnr Boas Avenue, Joondalup, subject to the following conditions:
- (a) on-site parking for 81 car bays to be provided;
 - (b) the parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890) and AS 2890.5 (on street parking). 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 programme;
 - (c) all stormwater to be discharged to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;
 - (d) the driveways and crossovers to be designed and constructed to the satisfaction of the City before occupation of development;
 - (e) car bay grades are generally not to exceed 6% and disabled car bay/s are to have a maximum grade of 2.5%;
 - (f) the footpath treatment in the adjoining road reserve to be continued to the property boundary to match the existing paving and paving pattern and at a grade of 2% rising from the kerblines, prior to the development first being occupied;
 - (g) the continuous pedestrian shelter to be provided along Grand Boulevard, Boas Avenue and Central Walk;
 - (h) the entrances to the foyers for the residential units to have a clear identity;
 - (i) all pedestrian shelter and awnings to be a minimum width of 2 metres and a minimum ceiling height of 2.75 metres;
 - (j) any roof mounted or free standing plant or equipment such as air conditioning units, satellite dishes or radio masts to be located and screened so as not to be visible from beyond the boundaries of the development site;
 - (k) each multiple dwelling to be provided with an adequate area for clothes drying that is screened from view from Grand Boulevard, Boas Avenue and Central Walk or alternatively to be provided with clothes drying facilities within the unit;
 - (l) in the event that the development is staged, temporary landscaping and fencing must be installed prior to the development being occupied to the satisfaction of the City;

- (m) submission of a Construction Management Plan detailing phasing of construction, access, storage of materials, protection of pedestrians, footpaths and other infrastructure;
- (n) all fencing to be designed and constructed in accordance with the attached extract from the Joondalup City Centre Plan and Manual and thereafter be maintained to the satisfaction of the City;
- (o) the bin storage area, as shown on the approved plans is required to provided for a minimum of 23 bins, is to be provided prior to the development first being occupied, in the location as shown on the approved plans. Such an area must be constructed with a concrete floor, graded to a 100mm industrial floor waste gully connected to sewer and be provided with a hose cock;
- (p) no obscure or reflective glazing being used in the ground level commercial units facing Grand Boulevard, Boas Avenue and Central Walk;
- (q) all boundary walls and parapet walls being of a clean finish and made good to the satisfaction of the City;
- (r) future residents being notified in writing by the proponent that this lot is located in the City Centre area which is planned to become a vibrant and bustling city centre comprising a mix of land uses where street level activity may occur of an intensity not normally associated with a traditional suburban residential environment;
- (s) the submission of an acoustic consultant's report demonstrating to the satisfaction of the City that the proposed development is capable of containing all noise emissions in accordance with the Environmental Protection Act;
- (t) suitable capping is to be provided to the satisfaction of the City along the western and eastern elevation so that any gap between the existing wall on the adjoining development common property boundary and the proposed southern wall of this development is closed. The capping is to be painted to match the development.

Footnotes:

- (i) With regard to condition (a) please be advised that cash in lieu payment will be accepted in regard to the shortfall of 11 car bays.
- (ii) You are advised that plans submitted for a Building Licence must show the full width of the verge and any street furniture, traffic islands, statutory services, road gullies, crossovers on the opposite side of the road, the existing site levels, design levels of all proposed development and include levels on top of the kerb at the crossover;

- (iii) A Mechanical Services Plan, signed by a suitably qualified Mechanical Services Engineer to certify that any mechanical ventilation complies with relevant legislation;
- (iv) A separate application being made to the City for Approval to Commence Development and sign licence prior to the installation of any advertising signage;
- (v) Compliance with the Building Code of Australia provisions for access and facilities for people with disabilities may not discharge an owner's or developer's liability under the Commonwealth Disability Discrimination Act (DDA). The Human Rights and Equal Opportunities Commission has developed guidelines to assist owners and developers in designing developments, which may satisfy the requirements of the DDA. Copies of the guidelines may be obtained from the Disabilities Services Commission, 53 Ord Street, West Perth, telephone 9426 9200;
- (vi) Compliance with BCA requirements;

ADDITIONAL INFORMATION

In the process of checking details for the above development, issues have emerged regarding the conformity of the proposal to the City Centre Plan and Manual, and the use of discretion under the District Planning Scheme. Legal advice has been sought, and is in the process of being finalised.

The viewpoint is that the development in its current form should not be approved at this time, until the legal issues have been resolved.

It is recommended that the suggested resolution be altered to read as follows:

That Council DEFERS consideration of the application dated 10 September 2003 for a mixed use development comprising of 61 multiple dwellings and 600m² commercial space at Lot 495 (165) Grand Boulevard/Cnr Boas Avenue, Joondalup, pending the preparation of an additional report for consideration by Council at its 16 December 2003 meeting.

The reasons for the change in recommendation are as follows

- 1 some discretion is required for approval of some aspects of the development.
- 2 the extent of discretion available is being reviewed in the light of the Mullaloo tavern decision of the Supreme Court last week
- 3 the advice is expected to be received next week, and will be available for the 16 December meeting.

Officers have endeavoured to arrange a meeting with Chris Lewis at Australand (the project leader) to discuss the issues, but this has been problematic given the short lead time to tonight's Council meeting.

Councillors should also be aware that the Mayor, Director Planning and Community Development and Manager Approvals Planning and Environmental Services met with Inner City Residents Association members last Friday morning. The members (approx 12 attended) expressed deep concern that the hotel development was not proceeding, and were critical of this development application.

Although there are no technical planning grounds to support the stance of the group, elected members might wish to consider this viewpoint.

On the basis of the advice received to date, it is strongly recommend that the alternate recommendation is supported.

MOVED Cr Prospero, SECONDED Cr Kimber that Council:

- 1 DEFERS consideration of the application dated 10 September 2003 for a mixed use development comprising of 61 multiple dwellings and 600m² commercial space at Lot 495 (165) Grand Boulevard/Cnr Boas Avenue, Joondalup, pending the preparation of an additional report for consideration by Council at its 16 December 2003 meeting;**
- 2 CONSULTS with the Joondalup Business Association and the Inner City Residents Association in relation to the proposed development.**

The Motion was Put and

CARRIED UNANIMOUSLY (11/0)

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

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf251103.pdf](#)

Crs Baker and Brewer entered the Chamber at this point, the time being 2137 hrs.

CJ280 - 12/03 ANNUAL LICENCE RENEWAL: MOBILE VENDING SERVICE – [56047]

WARD - All

PURPOSE

The purpose of this report is to obtain Council's determination regarding an application renewal of an annual licence for a mobile vending service under the Trading in Public Places Local Law.

EXECUTIVE SUMMARY

The applicant, Mr Grant Spivey - owner of Safe Sun, herein referred to as “the Applicant”, has submitted two separate proposals on 6 October 2003 for renewal of an annual Trading in Public Places Licence.

The applications are for:

- Renewal of the existing licence;
- Extension of the existing licence.

The City has investigated the applicant’s previous annual licences approved under the conditions of Policy 2.5.1 - Commercial Usage of Beachfront and Beach Reserves Policy.

What has been occurring to date is that previous approvals have been provided to the applicant which are outside the policy. The policy guidelines are specific on the products that can be sold under the licence agreement. It is the range of products that the applicant has been granted permission to sell that has contravened the intent of the policy. It is for this reason that what would normally be a straightforward administrative licence approval is on this occasion being forwarded to Council for consideration.

It is recommended that Council:

- 1 *approves the licence renewal from the Applicant to operate a mobile service to beachgoers from the breakwater north of Hillarys Beach Park, including Hillarys Beach Park (Whitfords Nodes), to Ocean Reef Boat Harbour, excluding an area 500m north and 500m south of the Mullaloo Beach Kiosk subject to the compliance with the City’s Commercial Usage of Beachfront and Beach Reserves Policy and the Trading in Public Places Local Law;*
- 2 *notes that the licence term is for 12 months only, terminating on 03/12/04;*
- 3 *endorses the applicant being advised that the City’s position regarding commercial traders being permitted onto the beaches is subject to ongoing review and that the situation may be subject to change.*

BACKGROUND

Policy

The provision of commercial activities on the City’s beaches has generated considerable interest from commercial operators to conduct a range of businesses on the beachfront. To assist in management of commercial activities, the City has over the years developed several policies on this matter.

Policy 2.5.1 - Commercial Usage of Beachfront and Beach Reserves Policy (Attachment 1) was last amended in July 1999. The City needs to ensure control on these activities to conserve the usability and the quality of the City’s beach’s as these are critical factors in determining a community’s character and livability. The Policy Review Committee will review the current policy as part of this process.

The whole policy is attached to the report with the most relevant section being outlined below:

1 “GENERAL

(b) Types of Commercial Activity

- i. In general, the types of commercial activity, which will be considered by the City, are the provision of a mobile vending service supplying cool drinks, ice creams and sunscreen.”*

History of the Applicant

The City has issued an annual licence to the applicant for the years 1999 to 2002. The initial licence issued was to sell cancer society approved *sunscreen and hats, cold drinks and wrapped ice cream from the breakwater north of Hillarys Beach Park to 200m south of the kiosk at Mullaloo Surf Life Saving Club and 200m north of the Kiosk to Ocean Reef Boat Harbour*. All further licence renewals have been extensions of this initial licence.

The service is presently delivered on the beach utilising a 4x4 motorcycle and a purpose built refrigerated trailer with recycling containers attached. The refrigerated trailer and equipment has Council approval as a food storage trailer.

All the Applicant’s annual licences approved by the City from 2000-2002 were granted outside of the conditions in Policy 2.5.1 - Commercial Usage of Beachfront and Beach Reserves Policy. The Following table outlines the approved annual licence extensions and discrepancies.

Year	Licence Extensions	Policy and Local Law
1999	<ul style="list-style-type: none"> - Breakwater north of Hillarys Beach Park to 200m south of the kiosk at Mullaloo Surf Life Saving Club - 200m north of the Kiosk to Ocean Reef Boat Harbour. 	<ul style="list-style-type: none"> - Refer to the Trading in Public Places Local Law Section 33(2)(b). The Licensee shall not attempt to trade within 500m, of the Mullaloo Surf Life Saving Club Kiosk - Refer to 2 of the Policy
2000	<ul style="list-style-type: none"> - As per 1999 licence - Extended to the sale of potato chips and sunglasses 	<ul style="list-style-type: none"> - Refer to 1(b) i of the Policy
2001	<ul style="list-style-type: none"> - As per 1999 licence - Extended to the sale of sandwiches and fruit salad 	<ul style="list-style-type: none"> - Refer to 1(b) i of the Policy
2002	<ul style="list-style-type: none"> - As per 1999 licence - Extended onto Hillarys Beach Park 	<ul style="list-style-type: none"> - Refer to 4 of the Policy - Refer to the Trading in Public Places Local Law Section 33 (2)(b)

DETAILS

Licence Renewal

The applicant has submitted two separate proposals on 6 October 2003 for renewal of an annual Trading in Public Places Licence.

Application A

The Applicant wishes to continue with his existing licence:

- Trading on the beach from the breakwater north of Hillarys Beach Park to Ocean Reef Boat Harbour (Attachment 5).
- Promoting sun safety selling sunscreen, hats, sunglasses, zinc, cool drinks, ice cream, potato chips and chocolate bars.

Application B

The Applicant wishes to extend his existing licence to include:

- Trading south onto Hillarys Beach Park.
- The sale of pre-prepared salads, sandwiches, coffee and steamed hotdogs.

The Applicant has been advised in correspondence from the City that the second proposal to increase items for sale do not comply with the current policy.

Health and Environmental Services Considerations

Officers have advised that approval of the applicant's requests can occur subject to the applicant demonstrating that the mobile vending service complies with Health (Food Hygiene) Regulations and all proposed food and drink must be pre-packaged by a reputable source.

Consultation:

Extensive internal consultation occurred with the contacts listed below.

- Manager Community Development Services
- Acting Manager Community Development Services
- Coordinator Health & Environmental Services
- Environmental Health Officer
- Community Education Coordinator
- Senior Project Officer
- Administration Team Leader
- Administration Secretary
- Manager Operations Services
- Human Resources Consultant

Policy Implications:Proposed Licences

The Applicant has submitted two applications for licence renewal. Application A seeks to renew the licence to operate as a vendor of sun protection products, food and drink.

Application B seeks to extend trade to include the sale of salads, coffee, sandwiches and hotdogs.

Both Applications A and B request conditions that are outside of the City's Policy. The Applicant is seeking to operate the business from the breakwater north of Hillarys Beach Park with the inclusion of the Park, to Ocean Reef Boat Harbour. The Applicant also seeks to sell food products that are not listed in the Policy.

COMMENT**Licence Review**

The review identified that the Applicants past licence approvals were not strictly in keeping with the City's current policy and the trading in Public Places Local Law. The approvals had extended the types of goods that could be sold by the applicant to the public. By extending the list of goods that could be sold the Officers have been providing permission to the Applicant to trade outside of the Councils policy.

In relation to the two present proposals received from the applicant, Officers support the issue of annual licences to trade on the beach in keeping with current Commercial Usage of Beachfront and Beach Reserves Policy and the Trading in Public Places Local Laws.

Role of Policies and Local laws

Council Policies and Local Laws play an integral role in providing an expected environment predominantly for the community to participate in recreation and leisure activities. To extend the licence beyond the policy is not considered necessary. The beach is a recreation reserve and needs to be treated as a place available for the community to carry out leisure activities without the pressures of having unnecessary commercial ventures operating.

Monopoly Position

The City's Trading in Public Places Local Law requires that mobile vendors do not operate within 500 metres of established business that sell the same goods. To do otherwise would undermine the Surf Life Saving Clubs potential to add to their revenue that is vital in supporting their important role in promoting beach safety and are major providers of Community Service. It is important to recognise that the Surf Life Saving Clubs position is quite different from other traders along the beach who operate for their personal gain.

Other traders

The City's designated Dog Beach is serviced from the car park by a Dog Wash Service and occasionally a mobile trader. Other areas adjacent the coastal roads have mobile soft serve ice cream vendors. Beach management issues as a whole are currently being reviewed and it is envisaged that part of the ongoing review will involve consultation with the community.

It is likely that the services provided to the public by mobile vendors that operate along the coast will be included as part of this general review and as part of the review being done by the Policy Review Committee. This may have significant effect on the current policy.

It is therefore recommended that the applicants Trading in Public Places Licence be renewed subject to the goods being offered for sale and the locations are subject to Policy 2.5.1 – Commercial Usage of Beachfront and Beach Reserves and the applicant being restricted to operate within 500 metres of the Sorrento and Mullaloo Surf Lifesaving Kiosks, as outlined in the City's trading in Public Local Law.

ATTACHMENTS

Attachment 1	Policy 2.5.1 – Commercial Usage of Beachfront and Beach Reserves
Attachment 5	Foreshore Trading Map

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 APPROVES the licence renewal from Mr Grant Spivey, Safe Sun, to operate a mobile service to beachgoers from the breakwater north of Hillarys Beach Park, with the inclusion of the Park, to Ocean Reef Boat Harbour, excluding an area 500m north and 500m south of the Mullaloo Beach Kiosk subject to compliance with the City's Commercial Usage of Beachfront and Beach Reserves Policy and the Trading in Public Places Local Law;
- 2 NOTES that the licence term is for 12 months only, terminating on 03/12/04;
- 3 ENDORSES the applicant being advised that the City's position regarding commercial traders being permitted onto the beaches is subject to ongoing review and that the situation may be subject to change.

MOVED Cr Caiacob, SECONDED Cr Brewer that Council:

- 1 APPROVES the licence renewal from Mr Grant Spivey, Safe Sun, to operate a mobile service to beachgoers from the breakwater north of Hillarys Beach Park, with the inclusion of the Park, to Ocean Reef Boat Harbour, excluding the appropriate area north and south of the Mullaloo Beach Kiosk in accordance with Council Policy 2.5.1 Commercial Beach Front and Beach Reserves Policy and permits the applicant to sell the following products:

- (a) any sun safety product
 - (b) cool drinks
 - (c) ice creams
 - (d) potato chips
 - (e) chocolate bars
 - (f) pre packed sandwiches and salads
 - (g) steamed hot dogs
 - (h) hot tea and coffee
- 2 NOTES that the licence term is for 12 months only, terminating on 03/12/04;
- 3 ENDORSES the applicant being advised that the City's position regarding commercial traders being permitted onto the beaches is subject to ongoing review and that the situation may be subject to change;
- 4 UNDERTAKES a review of Policy 2.5.1 - Commercial Beach Front and Beach Reserves Policy.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf251103.pdf](#)

CJ281 - 12/03 APPLICATION FOR THE CLOSURE OF THE PEDESTRIAN ACCESSWAY BETWEEN BEN CLOSE AND EDDYSTONE AVENUE, CRAIGIE – [82540]

WARD - Pinnaroo

PURPOSE

The purpose of this report is for Council to consider the closure of the pedestrian accessway (PAW) between Ben Close and Eddystone Avenue, Craigie (refer Attachment 1).

EXECUTIVE SUMMARY

The City has received a request for closure of the subject PAW from an adjoining landowner with three other adjoining landowners supporting the application. The justification for closure is repeated incidents of unwanted nuisances activities, anti-social behaviour and crime reduction.

The City's Pedestrian Accessway Policy provides parameters for evaluation of the request for closure. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated as low, medium or high and a recommendation made whether to support or not support closure.

The 'Urban Design Assessment' determines the importance of the PAW in the pedestrian movement network by analysing the impact that closure would have on access to local community facilities within 400 metres. The 'Nuisance Impact Assessment' assesses any evidence and information to determine the degree of anti-social behaviour being experienced, and the 'Community Impact Assessment' examines the information provided by surrounding residents to determine the level of use of the PAW.

In this case, the Urban Design Assessment, Nuisance Impact Assessment and Community Impact Assessment are all rated as medium, low and medium respectively. Based on these ratings, the proposal accords with 'Case 5' of the 'Pedestrian Accessway Policy' which states that closure is not supported where urban design assessment of the PAW is considered of medium importance and both nuisance is considered to be medium or low importance and use is considered to be medium in importance. Therefore, it is recommended that the closure of the PAW between Ben Close and Eddystone Avenue, Craigie not be supported.

BACKGROUND

Suburb/Location: Craigie
Zoning: **DPS:** Residential
MRS: Urban
Strategic Plan: No relevant objective/strategy within Strategic Plan

DETAILS

Current Proposal or Issue

The request for closure is based on repeated incidents of unwanted nuisance activities, anti-social behaviour such as break-ins, graffiti, noise, loitering and burglaries that adjoining landowners/occupiers consider are associated with the PAW. It is also alleged that there are alternative routes available, should the PAW be closed.

All four adjoining landowners support the closure of the PAW and agree in writing to acquire the land and meet any costs and conditions associated with closure.

Site Inspection

A site inspection revealed that vision through the PAW is good, providing clear sight lines. Apart from some damage visible to part of the fence, the general condition of the PAW appears satisfactory. At the time of the inspection there were only a few places where some graffiti was visible and there was little rubbish. Some graffiti was visible on a 'cubby-house' that adjoins the PAW fencing on the north side. (See attachment 2 to this report).

PAW Closure Process

A request can be made to close a PAW by an adjoining landowner. The City's Pedestrian Accessway Policy guides the process of evaluation. From the outset, the City must have some indication that some or all of the adjoining landowners are prepared to acquire the land within the PAW, pay all the associated costs and meet any necessary conditions. As part of the process, the service authorities are asked to provide details of any service plant (Water Corporation sewer mains etc) that may be within the PAW that would be affected by the proposed closure and if it can be modified or removed to accommodate the request.

Prior to the Department of Land Information (DLI) considering closure of a PAW, it is necessary for the Department for Planning and Infrastructure (DPI) to support closure. As per the City's Pedestrian Accessway Policy, the City seeks the DPI's view, however, this is done only if Council supports closure of the PAW. If the DPI does support the proposal then the DLI is requested to formally close the PAW. The final decision on a request for closure of a PAW rests with the Minister for Planning and Infrastructure.

Consultation

The proposal was advertised for thirty days from 3 September 2003 to 3 October 2003 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Attachments 3 and 4 summarise the information from the returned questionnaires in relation to this application. A total of 61 questionnaires were returned.

Policy Implications

The City's Pedestrian Accessway Policy has been prepared in accordance with clause 8.11 of the City of Joondalup's District Planning Scheme No 2, which allows Council to prepare policies relating to planning or development within the scheme area. The Policy provides guidance on the inclusion and design of PAWs in new subdivisions and assessment criteria for the closure of PAWs.

As part of the City's Pedestrian Accessway Policy, when closure of a PAW is requested, formal evaluation of the application is conducted. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated and a recommendation made whether to support or not support closure. Where points in the ratings do not match exactly with the assessment results, comments supporting the chosen rating will be provided in italics.

The Urban Design Assessment determines the importance of the PAW in the pedestrian movement network by analysing the impact that closure would have on homes that are accessible within 400 metres of local community facilities. The Nuisance Impact Assessment assesses any evidence and information to determine the degree of anti-social behaviour being experienced and the Community Impact Assessment considers the information provided from the surrounding residents to determine the level of use of the PAW.

COMMENT

Assessment and Reasons for Recommendation

Urban Design Assessment

From information received in the returned questionnaires, the subject PAW is primarily used to access community facilities such as public transport, Craigie Primary and Senior High School, Craigie Plaza shopping centre and local parks, with its main use being for exercise/social reasons and access to Craigie Plaza.

If the subject PAW is closed, the walking distance to these facilities does not appear to increase significantly, however, residents in Ben Close and Eddystone Avenue who are in close proximity to the PAW are likely to be the most inconvenienced as a result of closure. The main alternative route would appear to be via Eddystone Avenue and comments by some users, particularly those who reside within Ben Close, indicate that this alternative route is considered unsuitable. Reasons provided are that it increases the walking distance and as a result is inconvenient for school children in particular. The PAW appears to be used as a safe route by students of Craigie Primary School and possibly Craigie Senior High School due to the close proximity of guard-controlled crossings on Eddystone Avenue to the North and South of Ben Close. The PAW is currently not part of the Bikeplan route. It should be noted that some of the alternative routes are via other PAWs (i.e. PAW between Eddystone Avenue and Parmelia Way).

Although there are alternative routes for users, 10 of the 18 users (56%) advised they would be inconvenienced if closure were supported. Should this PAW and others in the immediate area be closed, walking distances are expected to increase significantly.

Comments in Returned Questionnaires

Based on the foregoing, a Medium rating appears the most appropriate:

Policy Parameters – Medium	Analysis Results
<ul style="list-style-type: none"> PAW provides a route to community facilities but not direct. 	<ul style="list-style-type: none"> This is supported
<ul style="list-style-type: none"> An alternative route exists but some inconvenience. 	<ul style="list-style-type: none"> This is supported.
<ul style="list-style-type: none"> PAW appears to be used as a ‘safe route to school’, however is not significant with regard to the bike plan. 	<ul style="list-style-type: none"> This is supported.

Nuisance Impact Assessment

The Nuisance Impact Assessment is carried out by investigating any reported anti-social behaviour. Justification provided is summarised as follows:

- The PAW leads nowhere and there are alternative routes for pedestrian movement through the area.
- Closure of the PAW will ‘quieten down’ the streets due to less pedestrian movement and noise.

- There are ‘too many’ PAWs in Craigie, by removing unnecessary PAWs it will improve (modernise) the suburb.
- Closing the PAW will reduce crime and eliminate loitering, graffiti and drug use.
- The PAW may be linked to a number of criminal activities in the area such as break-ins, burglaries and anti-social behavior.

Police Information

Police information provided for properties in Ben Close and Eddystone Avenue (within close proximity to the PAW) covered a period from January 2002 to September 2003. The following criminal activities were recorded:

- Reported burglary – (Jan 2002).
- Complaint towards suspicious persons in a vehicle parked outside (March 2002).
- Complaint against noisy party – (April 2002).
- Witness a theft by people in a vehicle – (April 2003).
- Complaint against youth loitering around streets – (Sept 2002).
- Break-in – (Feb 2003)
- Complaint against vandalism – (March 2003).

Police reports indicate that it is difficult to determine if the PAW is a contributing factor in these complaints. The problems encountered above do not appear to suggest that criminal activity or anti-social behaviour in and around the area of the PAW is any higher than other areas within the suburb.

Comments in Returned Questionnaires

Of the 18 users of the subject PAW, 3 had witnessed anti-social behaviour and 8 had noticed vandalism. One submission noted witnessing anti-social behaviour with youths kicking fences, adorning fences with graffiti and breaking glass in the PAW. Six submissions provided comments about noticing vandalism along the PAW such as, graffiti, and leaving rubbish, (broken bottles and syringes).

Based on the foregoing, it appears that the incidents noted by the adjoining landowners are similar to those experienced in the surrounding area. Therefore the Nuisance Impact Assessment is rated low as per Policy 3.2.7 – Pedestrian Accessways.

Policy Parameters – Low	Analysis Results
<ul style="list-style-type: none"> • Occurrence of criminal activity or antisocial behaviour similar to elsewhere in the suburb. 	<ul style="list-style-type: none"> • This appears to be correct
<ul style="list-style-type: none"> • Types of offences are limited to antisocial behaviour 	<ul style="list-style-type: none"> • This appears to be correct, however some higher-order criminal activity has been witnessed (i.e break-ins and burglary). • Difficult to determine if the PAW has directly contributed to the offences committed.
<ul style="list-style-type: none"> • The severity of antisocial behaviour is similar to elsewhere in the suburb 	<ul style="list-style-type: none"> • This appears to be correct

Community Impact Assessment

The proposal was advertised for thirty days from 3 September 2003 to 3 October 2003 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Of the 61 questionnaires returned, the overall response with regard to the support, objection or indifference to the closure is:

Supporters		Objectors		Neutral		Totals	
Users of the PAW	4	Users of the PAW	10	Users of the PAW	4	18	Users
Non users of the PAW	11	Non- users of the PAW	1	Non users of the PAW	31	43	Non-users
Total Supporting	15	Total Objecting	11	Total Neutrals	35	61	

Attachment 4 to this report indicates the most common use of the PAW is for exercise/social reasons and to gain access to Craigie Plaza shopping centre, with access to parks, school and public transport also being significant.

The Community Impact Assessment falls between a medium to low rating, however, medium appears more appropriate and generally satisfies the criteria stipulated under Policy 3.2.7 as it states:

Policy Parameters – Medium	Analysis Results
<ul style="list-style-type: none"> • Medium portion of respondents not in favour of closure (over 30%) 	<ul style="list-style-type: none"> • <i>Of the 61 respondents, 11 (approximately 18%) are not in favour of closure).</i>
<ul style="list-style-type: none"> • Moderate level of households using the PAW 	<ul style="list-style-type: none"> • <i>Of the 61 questionnaires received, 18 (approximately 30%) residents/families use the PAW</i>
<ul style="list-style-type: none"> • Moderate portion of users inconvenienced by closure of the PAW (30-50%) 	<ul style="list-style-type: none"> • <i>Of the 18 users, 10 (approximately 56%) advised they would be inconvenienced by closure</i>

As a comparison, the following table is a list of criteria under the ‘low’ heading of Policy 3.2.7;

Policy Parameters – Low	Analysis Results
<ul style="list-style-type: none"> • High number of residents in favour of closure over (75%) 	<ul style="list-style-type: none"> • <i>Of the 61 respondents, 15 (approximately 24%) support closure.</i>
<ul style="list-style-type: none"> • Low number of households using the PAW 	<ul style="list-style-type: none"> • <i>Of the 61 questionnaires received, 18 (approximately 30%) residents/families use the PAW</i>
<ul style="list-style-type: none"> • Few users inconvenienced by closure (less than 30%) 	<ul style="list-style-type: none"> • <i>Of the 18 users, 10 (approximately 56%) advised they would be inconvenienced by closure</i>

Overall Assessment

Residents in support of closure have commented that the PAW is unsafe and its closure will improve security. One submission was in favour of closing this PAW but not to other PAWs in the immediate vicinity. Another submission raised similar concerns outlined in the 'Nuisance Assessment' section of this report.

Three residents who wished to remain neutral passed comments in their returned questionnaires, with one expressing that closure of the PAW would cause great inconvenience, resulting in longer walking distance to shops, and may exacerbated their heart problem. Another resident acknowledged the usefulness of the PAW in helping people to access public transport, whilst a third resident identified that there were alternative routes if the PAW were closed.

Comments from some of the residents who are against closure include provision for a safe and convenient pedestrian route and its closure will result in longer walking distances to shops and community facilities. Some objectors considered that closing the PAW would inconvenience school children that use the PAW as a 'safe route' to school, while other objectors have raised the long-term implications of closing the PAW, such as longer walking distances and the temptation to close more PAWs, which would exacerbate the situation by making walking distances longer and potentially unsafe. One resident expressed that the PAW was included in the subdivision originally for the benefit of the local community and residents who purchased properties adjoining them did so in the understanding that they provided a use and benefit to the community.

Alternative routes, especially Eddystone Avenue via Allambia Drive may not be suitable for younger children, due to traffic safety concerns. Based on the information in the returned questionnaires, on balance, the PAW does appear to be an overall asset to the local community.

The result of each assessment is detailed below:

- Urban Design Medium
- Nuisance Impact Low
- Community Impact Medium

In accordance with Policy 3.2.7 – Pedestrian Accessways, the final assessment equates to a Case 5, which states that closure is not supported where Urban Design Assessment for the PAW is considered of medium importance since both nuisance is considered to be medium or low importance and use is considered to be medium in importance. Therefore, it is recommended that the application to close the PAW between Ben Close and Eddystone Avenue, Craigie not be supported.

ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Photographs of PAW
Attachment 3 & 4	Summarised information of returned questionnaires

VOTING REQUIREMENTS

Simply Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 DOES NOT support the closure of the pedestrian accessway between Ben Close and Eddystone Avenue, Craigie;
- 2 ADVISES the adjoining landowners of the pedestrian accessway and landowners within Ben Close and Eddystone Avenue (within close proximity either side of the PAW along Eddystone Avenue) of Council's decision.

MOVED Cr Walker, SECONDED Cr Baker that consideration of the closure of the pedestrian accessway between Ben Close and Eddystone Avenue, Craigie LIE ON THE TABLE until the next ordinary meeting of Council scheduled to be held on 16 December 2003.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 14 refers

To access this attachment on electronic document, click here: [Attach14brf251103.pdf](#)

In accordance with Standing Orders Local Law, Clause 5.4 – “The Motion Lie on the Table” a record is to be taken of all those who have spoken on the motion under debate. It is therefore recorded that Cr Walker spoke on the Motion Moved by Cr Walker and Seconded by Cr Baker.

**CJ282 - 12/03 REQUEST FOR CLOSURE AND SUBSEQUENT
PURCHASE OF A 40M² PORTION OF LACEPEDE
DRIVE (ROAD RESERVE) ADJOINING LOT 851 (68)
LACEPEDE DRIVE, SORRENTO – [69416] [13030]**

WARD - South Coastal

PURPOSE

The purpose of this report is for Council to consider a request for the closure of approximately 40m² of undeveloped road reserve land immediately adjacent to Lot 851 (68) Lacepede Drive, Sorrento (Attachment 1 refers).

EXECUTIVE SUMMARY

An application has been received from a representative of the owners of Lot 851 (68) Lacepede Drive, Sorrento to close approximately 40m² of Lacepede Drive, Sorrento that abuts their property. The applicants have advised the City that inclusion of this land area into their property will facilitate increased aesthetics of the property.

The land area of Lot 851 is 830m² and contains an existing single storey brick and tile dwelling. The subject road reserve/verge area does not have any designated future purpose, however has been maintained to a high standard by the landowner of Lot 851. Approval of this request will not facilitate increased development potential of the lot for grouped dwelling (duplex) development.

During the advertising period, four (4) submissions were forwarded to the City objecting to the proposal. The main points raised were in relation to the establishment of a precedent and road safety concerns.

Whilst it may be considered desirable for the landowner to formally acquire this portion of road reserve that has been maintained and improved to a high standard, the argument presented by the applicant that such an acquisition will improve the aesthetics of the property is not considered a valid town planning related argument, as improvement to aesthetics of the front verge has already occurred without formal acquisition of the land.

Furthermore, approval to this request is likely to create an undesirable precedent with respect to other future road closure requests. This undesirable precedent is likely to adversely impact upon the City's ability to refuse any future road closure application, particularly with respect to future applications that create a greater impact upon road and pedestrian safety, manoeuvrability and/or residential amenity than that proposed under this particular application. It is therefore recommended that the proposed road closure not be supported.

BACKGROUND

Suburb/Location:	Lot 851 (No 68) Lacepede Drive, Sorrento
Applicant:	Ms Julie Della C/- People In Property
Owner:	N & R Oancea
Zoning:	DPS: Residential
	MRS: Urban
Strategic Plan:	No Relevant objectives/strategies

The applicant has advised the City that the landowner seeks the acquisition of the road reserve land to aesthetically improve his property. The landowner believes that some users of the adjoining Seacrest Park cut across the driveway and lawn area of his property. However, investigation suggests that if this 'short cut' is occurring, it is upon the road reserve land and not upon the landowner's private property. The landowner also advised that if they are successful in obtaining portion of the road reserve, the landowners intend to correct the fence line in order to minimise park users cutting across the land sought to be acquired.

DETAILS

Current Proposal or Issue

A representative of the owners of Lot 851 (68) Lacepede Drive, Sorrento contacted the City requesting the closure and subsequent purchase of approximately 40m² of Lacepede Drive (Attachment 1). Following preliminary assessment, the request was forwarded to service authorities and the DPI for comment.

Road Closure Process

A request can be made to close a portion of road reserve and amalgamate that land into an adjoining property. Service authorities are requested to provide details of any service plant that is within the road reserve sought to be amalgamated and, if such infrastructure exists, the cost of relocation. All costs and conditions associated with service plant modification are to be met by the applicant if closure is the outcome.

The proposal is also forwarded to the Department for Planning and Infrastructure (DPI) for comment. If the service authorities and the DPI do not raise any objections and the applicants have agreed to meet all associated costs and conditions, then the application can be advertised for public comment.

If Council supports a road closure application, all relevant documentation is forwarded to Department of Land Information (DLI) with a request to formally close the road. The Minister for Planning and Infrastructure makes the final decision on whether or not closure takes place.

Statutory Provision:

Under Section 58 of the Land Administration Act 1997, closure of a portion of road is required to be advertised for 35 days by way of a notice in a local newspaper. Any objections received during the advertising period are to be considered by Council and if the closure is supported, all associated submissions are to be forwarded to the DLI. The DLI also requires other supporting documentation to be provided such as confirmation that the DPI has not objected to the proposal.

The DLI determines the purchase price to apply, arranges any easements and survey requirements and undertakes conveyancing. The purchase price is fixed by DLI in consultation with the Valuer General and is usually the unimproved market value of the land.

Consultation:

Comments were sought from the DPI and the service authorities and the DPI advised it did not object stating that the portion of the road to be closed forms part of the front garden area of Lot 851 and that closure will not negatively impact upon the street reserve or amenity of the area.

Telstra, Western Power and AlintaGas do not have any objections to the proposal, as they do not have plant in the area that would be affected. Water Corporation has objected as it does have plant in the area that requires modification at cost. The owners of Lot 851 have agreed to meet all costs and conditions associated with this proposal.

The public advertising period took place between 24 July 2003 and 28 August 2003. A newspaper notice was placed within the Joondalup Community Newspaper on 24 July 2003, a sign was placed on site and letters were forwarded to the residents immediately surrounding and opposite Lot 851 Lacepede Drive, Sorrento.

At the close of advertising, four (4) objections were received. The main points raised were with respect to the establishment of a precedent and road safety concerns. Other comments suggested that the landowner, upon purchasing the property, should have been fully aware of the alignment of Lacepede Drive and its verge, and the boundaries of the property and narrowing of the verge could make the carriageway less safe. There were also suggestions that no one in the community will benefit from the proposal other than the landowner of Lot 851 (68) Lacepede Drive, Sorrento, that the rules and regulations are there to be adhered to, why should this landowner be treated differently and finally, the loss of symmetry with respect to the built form, particularly with respect to garages (Attachment 2).

The issues raised by the objectors relating to traffic safety and loss of amenity cannot be substantiated, as no development or physical changes are proposed upon the portion of land to be closed, thus causing or creating an adverse effect upon road safety or residential amenity.

However, other issues raised by objectors, particularly those with respect to an undesirable precedent being created, are issues that Council has raised previously and this requires to be addressed.

Policy Implications:

Whilst the City does not currently have a defined road reserve closure policy, the Department of Land Information (DLI), formerly the Department of Land Administration (DOLA) has processes and guidelines to assist in the assessment of such road reserve closures.

A draft 'Preservation of Public Reserves Policy' was prepared and considered by Council at its meeting on 27 November 2001 and was adopted for public consultation purposes. The policy ensures that public reserves are protected and maintained to a standard that makes them safe, and practical for community use, whilst recognising that in some circumstances there are good arguments to consider alternative proposals for public reserves that may provide a benefit to the community. The policy applied to all public reserves in the City except pedestrian accessways, which have a separate defined policy.

Due to community concerns at the time relating to reserves being developed, which was not the objective of the policy, it was not proceeded with.

COMMENT

Assessment and Reasons for Recommendation

The Council should be made aware that the proposal, if supported, is unlikely to create any adverse impact upon vehicle or pedestrian manoeuvrability and road safety, nor create any adverse impacts with respect to residential amenity loss, as no development is proposed upon the portion of land.

Whilst the proposal is unlikely to adversely impact upon, nor detrimentally affect road and pedestrian safety, manoeuvrability or residential amenity, the issues relating to an undesirable precedent being created, together with the proposal not according with community expectations, are issues that need to be addressed.

In considering this request, the comments made in submissions need to be carefully considered. A comment raised during the advertising period stated that the proposal should not be supported unless very strong evidence can be presented demonstrating that it is in the public interest, public safety, and of benefit to the local community collectively. The proposal will not benefit the local community collectively, could be viewed as being not in the public's best interest and is likely to set an undesirable precedent for other landowners to request similar road reserve closures.

This undesirable precedent is likely to adversely impact upon the City's ability to refuse any future road closure application, particularly with respect to future applications that create a greater impact upon road and pedestrian safety, manoeuvrability and/or residential amenity than that proposed under this particular application.

The applicant has not provided any town planning related grounds in order for the City to justify support of the application. Furthermore, no evidence has been presented to suggest that people using Seacrest Park are 'cutting across' the land and in doing so, damaging any lawn and landscaping that the landowner has planted in the area subject to closure. Based on the above arguments it is recommended that the proposal not be supported.

ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Schedule of Submissions

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Kimber, SECONDED Cr Brewer that Council:

- 1 DOES NOT SUPPORT the closure of 40m² of the undeveloped road reserve adjoining Lot 851 (68) Lacepede Drive, Sorrento for the following reasons;**
 - (a) the proposal is not in the local community's best interest and will not benefit the local community collectively;**

- (b) **the proposal, if supported, is likely to create an undesirable precedent that is likely to adversely impact upon the City's ability to refuse any future road closure application that may create a greater impact upon road and pedestrian safety, manoeuvrability and/or residential amenity than that created under this proposal;**
- (c) **the proposal does not constitute proper and orderly planning for the locality.**

2 COMMUNICATES its decision and reasons for the decision to the applicant, the landowner, all persons who made submissions during the advertising period and the Department for Planning & Infrastructure.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 15 refers

To access this attachment on electronic document, click here: [Attach15brf251103.pdf](#)

Cr Brewer declared a financial interest in Item CJ283-12/03 – Delegated Authority Report for the Month of October 2003 as one of the applications related to Cr Brewer's residence.

Cr Brewer left the Chamber at this point, the time being 2140 hrs.

CJ283 - 12/03 DELEGATED AUTHORITY REPORT FOR THE MONTH OF OCTOBER 2003 – [07032]

WARD - All

EXECUTIVE SUMMARY

This report provides a resumé of the Development Applications processed by Delegated Authority for October 2003 (see attachment 1).

The total number of Development Applications determined (including Council and delegated decisions) is as follows:

Month	No	Value (\$)
October 2003	89	18,847,767

The number of development applications received for October was 77, compared with 78 applications received in September 2003.

ATTACHMENTS

Attachment 1 - Development Approvals processed

MOVED Cr Hart, SECONDED Cr Caiacob that Council NOTES the determinations made under Delegated Authority in relation to the applications described in Report CJ283-12/03.

The Motion was Put and

CARRIED UNANIMOUSLY (12/0)

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

Appendix 16 refers

To access this attachment on electronic document, click here: [Attach16agn021203.pdf](#)

Cr Brewer entered the Chamber at this point, the time being 2141 hrs.

Cr Baker declared a financial interest in Item CJ284-12/03 – Subdivision Referrals Processed 1-31 October 2003 as one of the properties listed is in close proximity to Cr Baker's residence.

Cr Baker left the Chamber at this point, the time being 2142 hrs.

CJ284 - 12/03 SUBDIVISION REFERRALS PROCESSED 1 - 31 OCTOBER 2003 – [05961]

WARD - North Coastal, South Coastal, Whitfords, Marina, Lakeside

PURPOSE

The purpose of this report is to advise Council of subdivision referrals received by the City for processing.

EXECUTIVE SUMMARY

Attachment 1 is a schedule of the Subdivision Referrals processed by Urban Design and Policy from 1– 31 October 2003. Applications were dealt with in terms of the delegation of subdivision control powers by the Chief Executive Officer (DP247-10/97 and DP10-01/98).

DETAILS

The subdivision applications processed will enable the potential creation of 3 additional residential lots and 2 strata residential lots. The average processing time taken was 21 days. Four applications were deferred and five applications were not supported.

Ref: SU123028 – 499 Burns Beach Road, Iluka

This application was deferred as the subdivision plan is not in accordance with the agreed Structure Plan.

Ref: SU1028-03 – 27 Eucalypt Court, Duncraig

Ref: SU534-03.01 – 8 Ranford Way, Hillarys

Ref: SU803-03.01 – 15 Woodswallow Close, Joondalup

These applications were not supported as they sought to retain existing dwellings and, given the lot boundary configuration proposed, would subsequently render the existing development non-compliant with the acceptable development provisions of the Residential Design Codes. The City has advised the WAPC of its intention to prepare a policy in relation to setbacks to boundaries for strata and survey strata subdivisions in order to address the situation.

Ref: SU123217 – 110 Shenton Avenue, Joondalup

This application was deferred as the proposal is considered premature in light of a number of changes requested to the adjoining subdivision proposal (WAPC No.123218) that may impact this subdivision proposal. It is also contrary to the Joondalup City Centre Structure Plan and therefore District Planning Scheme No.2 provisions 3.11.2.

Ref: SU123218 – 110 Shenton Avenue, Joondalup

This application was deferred as the proposal is considered premature in light of a number of issues that need to be resolved that concern the following:

- 1 re-examination and re-design of the subdivision layout;
- 2 reconsideration of the public open space and drainage layout;
- 3 survey plan showing the location of trees worthy of retention
- 4 additional matters concerning the Joondalup City Centre Structure Plan

The subdivision proposal is also contrary to the Joondalup City Centre Structure Plan and therefore District Planning Scheme No.2 provisions 3.11.2.

Ref: SU1078-03 – 5 Eastleigh Loop, Currambine

This application was not supported as the proposed subdivision does not comply with the WAPC's policy DC1.6 in that it does not achieve/encourage the key policy objectives/requirements.

Ref: SU123225 – 1 Princeville Tor, Connolly

This application was deferred, however, the amended plan was subsequently supported.

Ref: SU123378 – 12 Ardtalla Court, Duncraig

This application was not supported as the proposed configuration of the vacant lot is likely to create development and dwelling design constraints requiring significant variations to various acceptable development provisions of the Residential Design Codes of Western Australia.

ATTACHMENTS

Attachment 1 Schedule of Subdivision Referrals

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Caiacob, SECONDED Cr Mackintosh that Council NOTES the action taken by the subdivision control unit in relation to the applications described in Report CJ284-12/03.

The Motion was Put and

CARRIED UNANIMOUSLY (12/0)

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

Appendix 17 refers

To access this attachment on electronic document, click here: [Attach17brf251103.pdf](#)

Cr Baker entered the Chamber at this point, the time being 2143 hrs.

Cr Brewer declared a financial interest in Item CJ285-12/03 – Community Funding Program 2003-2004 Grants Allocations – First Funding Round as one of the associations to receive funding financially supports Cr Brewer's employment position at Ocean Reef High School.

Cr Brewer left the Chamber at this point, the time being 2144 hrs.

**CJ285 - 12/03 COMMUNITY FUNDING PROGRAM 2003-2004
GRANTS ALLOCATIONS - FIRST FUNDING ROUND
– [23542] [24542]**

WARD - All

PURPOSE

The purpose of this report is to provide information and make recommendations on the provision of Community Funding Program grants for the 2003/2004 financial year in accordance with the Community Funding Program's policy and guidelines.

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 and other eligible organisations. It is intended that support be offered to a range of community development initiatives consistent with the City's strategic objectives.

Funds will assist organisations and community groups to conduct projects, events and activities in the areas of community services provision, sport and recreation development, sustainable development and culture and the arts development.

This is the fifth consecutive financial year in which the Community Funding Program has been administered. The Program was first introduced in July 1999. If the recommendations in this report are adopted by Council this would mean that, to date, Council has allocated a total of 226 grants through the Program to organisations and community groups in the City of Joondalup to the value of \$458,285.

It is recommended that Council:

- 1 *APPROVES the grants recommended for approval under the City of Joondalup's Community Funding Program's first funding round for the financial year 2003/2004 as detailed in this Report;*
- 2 *ACKNOWLEDGES and thanks those members of the community who participated on the various assessment panels.*

BACKGROUND

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

At the Council meetings of 14 September 1999 and 26 September 2000, the Community Funding Program Guidelines for the 1999/2000 and 2000/2001 financial years were noted (Reports CJ304-09/99 and CJ252-09/00 refer) and various amendments were made to the Community Funding Policy (Reports CJ303-09/99 and CJ247-09/00 refer).

At the Council meeting of 11 September 2001, further amendments were made to the Community Funding Policy (Report CJ298-09/01 refers). A background report and a copy of the program's guidelines for the 2001/02 financial year were provided to Elected Members at the Briefing Session held on 4 September 2001.

At the Council meeting of 19 August 2003, further amendments were made to the Community Funding Policy (Report CJ193-08/03 refers). A background report and a copy of the program's guidelines for the 2003/04 financial year were provided to Elected Members at the Briefing Session held on 12 August 2003.

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 eligible not-for-profit organisations in support of a range of community development initiatives consistent with the City's strategic objectives.

The overall objective of the Community Funding Program is to provide a framework for the provision of targeted funding, which meets Council's strategic objectives in facilitating community development, in partnership with the community. Overall, the Community Funding Program aims to support the strategic objectives of the City in the areas of sport and recreation development, culture and arts development, economic development, environment development and provision of community services.

Eligible projects, events and activities include:

- Capital projects and items;
- One-off projects, activities or events;
- Seeding grants for projects, activities or events that can demonstrate independent viability after an appropriate period;
- Projects, activities or events where all other potential sources of funding have been exhausted or are not available.

Council will not fund the following:

- Deficit funding – for organisations which are experiencing a shortfall in cash revenue or anticipated revenue;
- Recurrent salaries and recurrent operational costs;
- Proposals where alternative sources of funding are available;
- More than one request for funding in any financial year;
- Individuals, unless they are sponsored by an eligible organisation and are residents of the City;
- Government or quasi-government agencies, with the exception of schools;
- Projects considered part of a school's normal curriculum;
- For profit organisations.

The program has four major fund categories as follows:

- Community Services Fund
- Culture and the Arts Development Fund
- Sustainable Development Fund
- Sport and Recreation Development Fund

Each of these fund categories has its own specific strategic objectives. In accordance with the Community Funding Policy, guidelines specific to each fund have been developed for the current financial year.

The program provides the framework for various common funding guidelines, eligibility criteria and accountability requirements that have been applied across the organisation to assess all applications for funding under the program. Applications are assessed against the following criteria:

- All eligibility criteria for funding are met;
- The application supports the mission statement, values and strategic direction of Council;
- The application addresses the funding objectives and identified priorities of the relevant fund category;
- Value for money;
- Demonstrated need;
- Community support either in cash or kind;
- Appropriate accountability processes being in place;
- Inclusion of all relevant documentation; and
- Compliance with Council's Community Funding Program Policy and Guidelines.

DETAILS

The Community Funding Program was advertised locally on 28 August 2003 and 4 September 2003 in the local newspapers. The closing date for applications was 8 October 2003.

An information package, which contained the Community Funding Program guidelines and application forms, was posted or emailed to organisations and community groups on request. The information package was also available electronically via the City's Website.

A Community Funding Program workshop was conducted on 25 September 2003. A number of one to one meetings were also held between Council officers and representatives from various organisations and community groups who had expressed an interest in receiving assistance to complete the application forms or obtain additional information about the program.

Each application received was assessed against the generic eligibility and assessment criteria together with the specific funding objectives and priorities for the 2003/2004 financial year, as contained in the Community Funding Program guidelines.

Assessment panels, consisting of Council Officers and external community members, were established as follows:

Community Services Fund

Julie Eaton	Acting Manager Community Development Services - Facilitator
Christine McCallum	Area Co-ordinator Disability Services Commission
Mary-Anne Jackson	Department for Community Development
Kevan Rowe	Representative from the City's Seniors Interests Advisory Committee

Culture and the Arts Development Fund

Natalie Maiden	Arts Project Officer - Facilitator
James Nerver	Arts Production & The Boulevard Venue Manager
Trish Schuttler	Community Art Gallery & Invitation Art Award Volunteer
Andrea Stimson	Artist Agent and teacher at St Stephens

Sport and Recreation Development Fund

Kristy Strange	Recreation Development Officer - Facilitator
Mandy Carpenter	President of Wanneroo/Joondalup Teeball Club
Warren Nell	President of Whitfords Amateur Football Club
Katherine Pavlenko Butlers	President of Just for Fun Playgroup
Wayne Grimes	Recreation Development Officer, Community Development Services

Sustainable Development Fund

Fabian Uzaraga	Sustainable Development Officer - Facilitator
Scott Favacho	Senior Environmental Health Officer
Will Carstairs	Community Representative, Sustainability Advisory Committee
Vincent Cusack	Community Representative, Sustainability Advisory Committee

The Community Funding Program Guidelines for 2003/2004 and Policy 4.1.1 - Community Funding are included as Attachments 2 and 3. The objectives and funding priorities for each fund category for the 2003/2004 financial year are detailed in these attachments.

Financial Implications:

In the 2003/2004 financial year there is a total of \$96,000 available for distribution.

Community Services Fund	\$22,000
Culture and the Arts Development Fund	\$22,000
Sport and Recreation Development Fund	\$22,000
Sustainable Development Fund	\$30,000

Attachment 1 includes a full listing of all applications received and applications recommended for full or partial funding. A number of applications have been recommended for approval subject to the applicants agreeing to meet certain conditions of funding.

All funds recommended for allocation are inclusive of GST. Attachment 1 to this report also includes a column for the amount of funding recommended exclusive of GST. The inclusion of this extra column reflects the true cost to the City, as the GST component of grants awarded to organisations which are registered for GST with the Australian Taxation Office (ATO) are able to be reclaimed from the ATO by the City.

The following chart shows a profile of the funding arrangements for each fund category:

	Funds available in 2003/2004 Financial Year	Funding Requested Including GST	Funding Recommended Including GST (Excluding GST)	Balance of Funds Remaining
Community Services Fund 1 4410 4420 0001 9999	\$22,000	\$60,242.70	\$22,000.00 (\$20,136.36)	\$1,863.64
Culture & the Arts Development Fund 1 4430 4420 0001 A011	\$22,000	\$41,054.85	\$21,948.00 (\$20,938.91)	\$1,061.09
Sustainable Development Fund 1 2130 4420 0001 9999	\$30,000	\$18,452.00	\$12,697.00 (\$11,542.73)	\$18457.27
Sport & Recreation Development Fund 1 4530 4420 0001 9999	\$22,000	\$26,915.45	\$6,452.25 (\$6,092.95)	\$15,907.05
TOTAL	\$96,000	\$146,665.00	\$63,097.25 (\$58,710.95)	\$37,289.05

The following chart provides a profile of the number of applications processed:

	Applications Received	Applications Received for Funding <=\$2,500	Applications Received for Funding >\$2,500	Applications Recommended for Full or Partial Funding	Applications referred to Formal Facilities Assessment Process
Community Services Fund	14	9	5	8	0
Culture & the Arts Development Fund	15	13	2	11	0
Sport & Recreation Development Fund	6	4	2	3	0
Sustainable Development Fund	6	4	2	4	0
TOTAL	41	30	11	26	0

Applications from the following 26 organisations have been recommended for funding:

- Challenge Brass Band Inc
- Community Vision Inc in partnership with Disability in the Arts, Disadvantage in the Arts Australia (DADAA)
- Connolly Rainbow Toy Library
- Continence Advisory Service
- Currambine Primary School.
- Duncraig Senior High School
- Joondalup Encore Theatre Society
- Joondalup Youth Support Services JYSS
- Kira Inc Parent Body
- Lakeside Christian Church
- Montessori School (Kingsley).
- Mullaloo Beach Primary School.
- North Coast Triathlon Club
- Northcity Christian Centre
- Nyool Jar Aboriginal Corporation
- Open House Friendship Group (Sponsored by Warwick Church of Christ)
- Padbury Education and Child Care Centre
- Peter Cowan Writers Centre
- Priority Television Network Inc
- Sunset Coast Tourism Association.
- Swan and Flippers Inc
- Teens Unlimited (Sponsored by Community Vision Inc)
- The Homestead
- The Salvation Army Heathridge
- The West Coast Warblers - Joondalup Primary School
- Warwick Church of Christ

COMMENT

In accordance with the provisions of the Community Funding Policy and Guidelines, all applicants will be advised as to the outcomes of their applications. Successful applicants will be required to enter into contractual agreements with the City for funds allocated under the Community Funding Program and the City will register the grants allocated. Successful applicants are also required to suitably acknowledge the financial support provided by the City. The nature of such acknowledgement will be negotiated with each successful applicant as part of the process of drafting the required funding agreements.

The Community Funding Policy provides that decisions regarding funding applications are final and will not be reconsidered during the financial year in which the application is made.

Should the recommendations in this report be adopted by Council, this will mean that since the introduction of the City's Community Funding Program a total of 226 grants have been allocated by the City under this program to organisations and community groups with a total value of \$458,285 as follows:

1999/2000	41 organisations	\$62,638
2000/2001	61 organisations	\$130,876
2001/2002	53 organisations	\$92,806
2002/2003	45 organisations	\$105,568
2003/2004	26 organisations	\$63,097

The assistance and advice provided by members of the community who voluntarily participated on the various assessment panels has been invaluable. It is recommended that their contributions be acknowledged by Council.

Arrangements will be made for the Mayor or his delegate to personally present organisations and community groups with their cheques.

ATTACHMENTS

Attachment 1 Community Funding Applications

VOTING REQUIREMENTS

Simple Majority

ADDITIONAL INFORMATION

At the Briefing Session held on 25 November 2003, the following questions were raised regarding the Community Funding Scheme grant of \$7,700 to the Sunset Coast Tourism Association (SCTA) under the Community funding Program 2003-04 Grant Allocations – First Round (Item CJ285–12/03 of Council’s Agenda Items for its Ordinary Meeting of 2 December 2003 refers.)

An undertaking was given that a response would be provided to elected members prior to consideration of the item at the Council Meeting.

Question 1: Is it (the Sunset Coast Tourism Association) a not-for-profit organisation?

The City of Joondalup’s Community Funding policy (Section 4.1 of the Policy Manual [Policy 4.1.1 – Community Funding]) stipulates the following definition of “Organisation” that may receive eligible funding under the policy:

“Organisation – is an incorporated body under the Associations Incorporation’s Act 1987 or a recognised not for profit, non-government corporate body either created by government or with an Australian Companies Number (CAN) or Australian Business Number, (ABN) or a school.”

The Sunset Coast Tourism Association (SCTA) is a non-profit organisation with the following Australian Business Number, ABN54660306112

The organisation was incorporated in September 1993, Registration No: A100337M. The Sunset Coast Association is a peak association body that provides regional direction, support to tourism operators from Cottesloe to Yanchee. The SCTA like many other peak bodies throughout Australia does not discriminate between large and small businesses within its membership base.

Edith Cowan University is undertaking research to collect base data underpinning the Sunset Coast Tourism industry as per the Sunset Coast Tourism Monitor subject to Question 3 below. From preliminary data collected, it appears that up to 80 percent of accommodation businesses in the industry are small businesses that employ five (5) or less equivalent full time employees. Of the remaining 20 percent of employers only 11 percent employed 15 or more full-time equivalent staff.

Question 2: A lot of the companies that make up the Organisation are not even in the City of Joondalup

Of the 73 members of the SCTA:

- 23 (32.5%) are located within the City of Joondalup:
- 28 (36.6%) are located within the City of Wanneroo
- 17 (23.9%) are located within the City of Stirling and
- 05 (07%) are located elsewhere (eg Cottesloe, Cambridge etc)

Again, as mentioned in the City's response to Question 1 above, Edith Cowan University is undertaking research to collect base data underpinning the Sunset Coast Tourism industry as per the Sunset Coast Tourism Monitor subject to Question 3 below. From preliminary data collected, it appears that up to 80 percent of accommodation businesses in the industry are small businesses that employ five (5) or less equivalent full time employees. This ratio translates to approximately 18 of the 23 accommodation businesses that are members of the SCTA that are also located within the City of Joondalup. Of the remaining 20 percent of employers only 11 percent employed 15 or more full-time equivalent staff.

Apart from the support provided by the City of Joondalup, the Sunset Coast Tourism Association is also being supported by, during the current financial year by:

- The City of Wanneroo (\$7,000) and
- The City of Stirling (\$5,000).

The funding is being allocated to the same project, that is the coordinated promotion of the Sunset Coast Tourism Association through the production of an annual brochure that outlines the region's accommodation providers, activities and other tourism places of interest. The 2003/04 brochure, for example highlights the Joondalup City Centre, the City's main parks and leisure centres as a key destination of interest on the Sunset Coast, in addition Hillary's Boat Harbour.

Question 3: 20 k was given to the organisation last year what happened to that and what were the benefits of that grant to the City. How is this grant going to differ?

The grant in 2002/03 comprised:

- \$5,000 for the production and distribution of the Sunset Coast Brochure and
- \$15,000 for the Sunset Coast Tourism Monitor project.

The Tourism Monitor Project involved a partnership between the SCTA and Edith Cowan University's School of Tourism and Marketing to determine the economic and social significance of the tourism industry to the North West Metropolitan region. Currently, the establishment of base data for the project is being completed by Edith Cowan University under the coordination of Dr Joanna Fountain.

As an example, a recent base data study undertaken as part of the project shows that the accommodation element of the Sunset Coast tourism industry directly employs an estimated 500 people. This figure does not include employment in associated areas of the industry such as retail or in service companies that contract to accommodation providers such as cleaners, or indeed of restaurants, clubs and pubs that also cater to clients serviced in these accommodation businesses.

Question 4: What are the sustainable development components to the proposal?

The aim of the Tourism Monitor project includes determining the extent to which tourism contributes to the employment of persons who also live in the region. It is also expected that tourism as an industry also generates additional multipliers in related industries such as retail, personal services and hospitality. It is through establishing such baseline numbers that the City can then embark on additional strategies that will include facilitation of eco-tourism.(ref Strategic Plan - Strategy 3.2.3 pg 10)

The City's Strategic Plan sets direction for the City to be recognised as a great place to visit. In achieving this stated outcome the City must develop collaborative approaches with key players in our region if we are to achieve this outcome. The City is not capable of driving a sustainable tourism outcome in isolation of key stakeholders. Objective 3.1 of the Plan and its associated strategies 3.2.1, 3.2.2 and 3.2.3 are clearly aligned with the direction the City is taking to implement the strategies through such initiatives as is being funded through this Community Funding grant. The research that will be derived from the initiative will underpin the development of the City's Tourism Development Plan which is also currently under construction by providing a current baseline of tourism activities in our City.

Another key element of the project is to deliberately broker a collaboration between the region's education sector as a trainer of the region's young people.(centred on the Joondalup Learning Precinct of which the City is an ex-officio member of this Board formed under a MOU between ECU, Police Academy and TAFE) In this project, ECU gains a direct working relationship with a key regional employer for (local) students undertaking tourism and hospitality courses in the precinct. This arrangement also enables the Sunset Coast Tourism Association (as a key employer in the region) to access the marketing and tourism studies expertise that ECU has to offer in order to expand local employment opportunities.

Ultimately if the City is to become sustainable it needs to have a strong economic base from which its citizens can find employment in industry segments that simultaneously embrace the principles of sustainability. The City of Joondalup is committed to developing Education and Tourism based on sustainability principles as the major industry segments that will provide economic sustainability to our City.

MOVED Cr Walker, SECONDED Cr Hart that Council:

- 1 APPROVES the grants recommended for approval under the City of Joondalup's Community Funding Program's first funding round for the financial year 2003/2004 as detailed in Attachment 1 to Report CJ285-12/03;**
- 2 ACKNOWLEDGES and thanks those members of the community who participated on the various assessment panels.**

Cr Kimber congratulated Manager Community Development and staff for the manner and way in which the applications were presented.

The Motion was Put and

CARRIED UNANIMOUSLY (12/0)

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

Appendix 18 refers

To access this attachment on electronic document, click here: [Attach18brf251103.pdf](#)

**CJ286- 12/03 MINUTES OF THE SENIORS INTERESTS
ADVISORY COMMITTEE MEETING -
WEDNESDAY, 15 OCTOBER 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, 15 October 2003.

EXECUTIVE SUMMARY

A meeting of the Seniors Interests Advisory Committee was held on Wednesday, 15 October 2003. The unconfirmed minutes of the meeting are submitted for noting by Council.

It is recommended that Council notes the unconfirmed minutes of the Seniors Interests Advisory Committee meeting held Wednesday, 15 October 2003 forming Attachment 1 to this report.

DETAILS

The Minutes of the Seniors Interests Advisory Committee held on 15 October 2003 at the City of Joondalup are included as Attachment 1 to this Report.

At the meeting it was agreed that the Terms of Reference be amended to allow a vacancy to be advertised for the recruitment of a person who could represent the issues regarding accommodation for seniors. The amended Terms of Reference will be presented to Council at a future meeting.

ATTACHMENTS

Attachment 1 Minutes of the Seniors Interests Advisory Committee Meeting held 15 October 2003.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Walker, SECONDED Cr Baker that Council NOTES the unconfirmed minutes of the Seniors Interests Advisory Committee meeting held Wednesday, 15 October 2003 forming Attachment 1 to Report CJ286-12/03.

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (12/0)

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

Appendix 19 refers

To access this attachment on electronic document, click here: [Attach19brf251103.pdf](#)

CJ287 - 12/03 WHEELED SPORTS COMMITTEE MINUTES – [09010]

WARD - All

PURPOSE

A meeting of the Wheeled Sports Committee was held on 13 August 2003 and the unconfirmed minutes are submitted for noting by Council (Attachment 1 refers).

EXECUTIVE SUMMARY

A meeting of the Wheeled Sports Committee was held on 13 August 2003 and the unconfirmed minutes are submitted for noting by Council (Attachment 1 refers).

The Committee has recommended to Council the following:

- 1 That the draft Terms of Reference for the Wheeled Sports Committee be amended to confirm that the term of appointment is until the next Council election. (Attachment 2 refers); and
- 2 To endorse the Wheeled Sports Committee Draft Terms of Reference.

DETAILS

The unconfirmed minutes of the Wheeled Sports Committee meeting held 13 August 2003 are included as Attachment 1.

Actions to be undertaken as outlined in the meeting minutes include; that the Manager Community Development Services, the Recreation Development Officer and Cr Kimber commence discussions with Arena management regarding a potential future regional skatepark to be located at the Arena.

ATTACHMENTS

Attachment 1 Minutes of Wheeled Sports Committee meeting held 13 August 2003.
Attachment 2 Wheeled Sports Committee Draft Terms of Reference.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr O'Brien, SECONDED Cr Kimber that Council:

- 1 NOTES the unconfirmed minutes of the Wheeled Sports Committee meeting held on 13 August 2003 forming Attachment 1 to Report CJ287-12/03;**
- 2 ENDORSES the Wheeled Sports Committee Draft Terms of Reference forming Attachment 2 to Report CJ287-12/03.**

The Motion was Put and

CARRIED UNANIMOUSLY (12/0)

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

Appendix 20 refers

To access this attachment on electronic document, click here: [Attach20brf251103.pdf](#)

CJ288 - 12/03 MINUTES JOONDALUP EISTEDDFOD WORKING PARTY – 9 OCTOBER 2003 – [50027]

WARD - All

PURPOSE

The purpose of this report is to submit to Council the unconfirmed minutes of the meeting of the Joondalup Eisteddfod Working Party held on 9 October 2003.

EXECUTIVE SUMMARY

The unconfirmed minutes of the Joondalup Eisteddfod Working Party meeting held on 9 October 2003 are included as Attachment 1.

It is recommended that Council NOTES the unconfirmed Minutes of the Joondalup Eisteddfod Working Party held on 9 October 2003 forming Attachment 1 to this Report.

DETAILS

The unconfirmed minutes of the Joondalup Eisteddfod Working Party meeting held on 9 October 2003 are included as Attachment 1. Most matters arising at the meeting were of an administration nature and would be handled by the City's administration.

A letter of invitation to an Eisteddfod Society Conference in Cowra, NSW was received. A representative from the Joondalup Eisteddfod has been invited each year. The Committee recognises the importance of the event and hopes to send a representative (preferably the Eisteddfod Coordinator or Chairperson) with a view to hosting the event in Joondalup in the future.

The Arts Project Officer is to investigate funding from the Council for a delegate to be sent to the Eisteddfod Society Conference in 2004.

The Committee recommended that the Selection Panel for the appointment of a new Eisteddfod Coordinator include the Chairman of the Eisteddfod Committee.

The Committee agreed that the position of Eisteddfod Coordinator be review and re-classified prior to the advertising of the position.

ATTACHMENTS

Attachment 1 Minutes of the Joondalup Eisteddfod Working Party meeting held on 9 October 2003.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Hollywood, SECONDED Cr Hart that Council NOTES the unconfirmed Minutes of the Joondalup Eisteddfod Working Party held on 9 October 2003 forming Attachment 1 to Report CJ288-12/03.

The Motion was Put and

CARRIED UNANIMOUSLY (12/0)

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

Appendix 21 refers

To access this attachment on electronic document, click here: [Attach21brf251103.pdf](#)

Cr Brewer entered the Chamber at this point, the time being 2145 hrs.

**CJ289 - 12/03 MINUTES JOONDALUP FESTIVAL AND SUMMER
EVENTS COMMITTEE – 4 NOVEMBER 2003 –
[78527]**

WARD - All

PURPOSE

The purpose of this report is to submit to Council the unconfirmed minutes of the meeting of the Joondalup Festival and Summer Events Committee held on 4 November 2003.

EXECUTIVE SUMMARY

The unconfirmed minutes of the Joondalup Festival and Summer Events Committee held on 4 November 2003 are included as Attachment 1.

It is recommended that Council NOTES the unconfirmed Minutes of the Joondalup Festival and Summer Events Committee held on 4 November 2003 forming Attachment 1 to this Report.

DETAILS

The unconfirmed minutes of the Joondalup Festival and Summer Events Committee held on 4 November 2003 are included as Attachment 1. All matters arising at the meeting were of an administration nature and would be handled by the City's administration.

Perth International Arts Festival

No suitable Perth International Arts Festival event has been secured for 2004. It was agreed that \$15,000 - \$20,000 would be used from a budget of \$35,000 to secure the Food & Wine Festival and that the remaining funds should be returned in the mid-budget review for reallocation. It was noted that funds to secure the Food & Wine Festival would be a good investment if the Food & Wine Festival could be developed into a stand-alone event in the future.

MOVED Cr L Prospero SECONDED Cr T Brewer that \$15,000 - \$20,000 be set aside to offset increased costs associated with the Food and Wine Festival and that the remaining is returned for reallocation in the mid-budget review.

ATTACHMENTS

Attachment 1 Minutes of the Joondalup Festival and Summer Events Committee held on 4 November 2003.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Prospero, SECONDED Cr Mackintosh that Council NOTES the unconfirmed Minutes of the Joondalup Festival and Summer Events Committee held on 4 November 2003 forming Attachment 1 to Report CJ289-12/03.

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 22 refers

To access this attachment on electronic document, click here: [Attach22brf251103.pdf](#)

CJ290 - 12/03 MINUTES OF THE ART COLLECTION WORKING PARTY – 6 NOVEMBER 2003 – [14158]

WARD - All

PURPOSE

The purpose of this report is to submit to Council the unconfirmed minutes of the meeting of the Art Collection Working Party held 6 November 2003.

EXECUTIVE SUMMARY

A meeting of the Art Collection Working Party held on 6 November 2003 and the unconfirmed minutes are submitted for noting by Council.

It is recommended that Council:

- 1 *NOTES the minutes of the Art Collection Working Party held on 6 November 2003*
- 2 *APPROVES the purchase of the following art work for the Art Collection at the cost of \$4363.63 from Account Number 1 4430 6781 0001 A007 – Art Purchases:*

<i>ARTIST</i>	<i>TITLE</i>	<i>MEDIUM</i>	<i>ART GALLERY</i>	<i>PRICE GST INC</i>	<i>PRICE GST EXC \$</i>
<i>Julie Dowling</i>	<i>Old Girl</i>	<i>Acrylic, Red Ochre & Plastic on Canvas</i>	<i>Artplace</i>	<i>\$ 4,800</i>	<i>4,363.63</i>
<i>Total</i>				<i>\$ 4,800</i>	<i>4,363.63</i>

BACKGROUND

The Art Collection has the following objectives:

- To support contemporary Western Australian Art and Artists
- To provide the citizens of the City of Joondalup access to high quality visual art within the boundaries of the region.

The profile of the collection is to establish a collection of good quality artwork by contemporary Western Australian artists with a second priority of having a regional focus.

Artworks over the value of \$1000 are required to be considered by the Art Collection Working Party for acquisition for the City's collection.

Members of the Art Collection Working Party are:

Cr Paul Kimber, Chair

Cr Janine Gollant

Belinda Cobby, Curator

James Boyd, Coordinator Cultural Development.

DETAILS

The minutes of the Art Collection Working Party meeting held on 6 November 2003 are included as Attachment 1. The Art Collection Working Party has recommended purchase of the following artwork:

<i>ARTIST</i>	<i>TITLE</i>	<i>MEDIUM</i>	<i>ART GALLERY</i>	<i>PRICE GST INC</i>	<i>PRICE GST EXC \$</i>
<i>Julie Dowling</i>	<i>Old Girl</i>	<i>Acrylic, Red Ochre & Plastic on Canvas</i>	<i>Artplace</i>	<i>\$ 4,800</i>	<i>4,363.63</i>
<i>Total</i>				<i>\$ 4,800</i>	<i>4,363.63</i>

Financial Implications

Funds for the purchase of the artworks are as detailed below.

Account No:	1 4430 6781 0001 A007
Budget Item:	Art Purchases
Budget Amount:	\$10,000
Current Balance:	\$5,863.64
Actual Cost:	\$4,363.63
Remaining Budget:	\$ 909.01

COMMENT

The Curator recommended the purchase of the following artworks for the reasons stated:

Old Girl, (2003) Acrylic, Red Ochre & Plastic on Canvas by Julie Dowling for \$4,800 (inc GST).

- the work meets the Art Collection profile
- This is a beautiful artwork by an outstanding Nyoongar artist, whose work would be a valuable asset to the City of Joondalup Art Collection.
- Julie Dowling is represented in major National and State collections and is considered a highly collectible artist (voted “the most Collectible Artist” in 2001 by the Art Collector magazine).

ATTACHMENTS

Attachment 1 Minutes of the Art Collection Working Party meeting held on 6 November 2003

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Gollant, SECONDED Cr Kimber that Council:

- 1 NOTES the unconfirmed minutes of the Art Collection Working Party held on 6 November 2003 forming Attachment 1 to Report CJ290-12/03;**
- 2 APPROVES the purchase of the following art work for the Art Collection at the cost of \$4363.63 from Account Number 1 4430 6781 0001 A007 – Art Purchases:**

ARTIST	TITLE	MEDIUM	ART GALLERY	PRICE GST INC	PRICE GST EXC \$
Julie Dowling	Old Girl	Acrylic, Red Ochre & Plastic on Canvas	Artplace	\$ 4,800	4,363.63
Total				\$ 4,800	4,363.63

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

Appendix 23 refers

To access this attachment on electronic document, click here: [Attach23brf251103.pdf](#)

REPORT OF THE CHIEF EXECUTIVE OFFICER**CJ291 - 12/03 REQUEST FOR MAYOR'S INCOMING AND
OUTGOING TELEPHONE ACCOUNTS FOR
MOBILE, HOME, OFFICE AND FACSIMILE**

No Report was submitted in relation to this Item.

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**C259-12/03 NOTICE OF MOTION NO 1 – CR C BAKER – CITY OF
JOONDALUP CHRISTMAS PARTY – 2004 AND THEREAFTER**

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr C Baker has given notice of his intention to move the following motion at the Council meeting to be held on 2 December 2003:

That the City of Joondalup continues to host a Christmas function, in each year, to be structured as follows:

- 1 The function is to be a community function with the invited guests being members of all charitable, not for profit incorporated associations, organisations and groups within the City, including but not limited to sporting Clubs, P & Cs, P & Fs, cultural and civic leaders, seniors groups etc;*
- 2 That the function take the format of an open air BBQ and be conducted at a suitable venue such as Neil Hawkins Park Joondalup or Central Park Joondalup with entertainment for young children, families and seniors alike;*
- 3 That the total cost of the function be capped at \$5,000 (all inclusive);*
- 4 That there be no complimentary alcoholic beverages provided by the City (i.e. BYO);*
- 5 That the numbers for the function be capped to slot in with the total costing mentioned above; and*
- 6 Such other matters recommended by Council.*

OFFICER'S COMMENT

To date, the House Committee has prepared recommendations to Council in regard to the format, invitation list and budget for the Council Christmas functions. Once approved by Council, Administration has carried out the recommended actions.

In keeping with this practice, Administration recommend that Council directs the House Committee to report back to Council, at the 9 March 2004 meeting, on the option of holding a Christmas function as outlined in the Notice of Motion by Councillor Baker.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Baker, SECONDED Cr Hart that City of Joondalup continues to host a Christmas function, in each year, to be structured as follows:

- 1 the function is to be a community function with the invited guests being members of all charitable, not for profit incorporated associations, organisations and groups within the City, including but not limited to sporting Clubs, P & Cs, P & Fs, cultural and civic leaders, seniors groups etc;**
- 2 that the function take the format of an open air BBQ and be conducted at a suitable venue such as Neil Hawkins Park Joondalup or Central Park Joondalup with entertainment for young children, families and seniors alike;**
- 3 that the total cost of the function be capped at \$5,000 (all inclusive);**
- 4 that there be no complimentary alcoholic beverages provided by the City (i.e. BYO);**
- 5 that the numbers for the function be capped to slot in with the total costing mentioned above;**
- 6 such other matters recommended by Council.**

The Motion was Put and

CARRIED UNANIMOUSLY (13/0)

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

C260-12/03

NOTICE OF MOTION NO 2 – CR C BAKER – CITY OF JOONDALUP CHRISTMAS PARTY – INVITED GUESTS

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr C Baker has given notice of his intention to move the following motion at the Council meeting to be held on 2 December 2003:

“That as a matter of protocol, effective from and including this year’s Christmas Party, all former Mayors (and their partners) of the City of Joondalup be extended a cordial invitation to attend the Annual City of Joondalup Christmas function, whatever form that function may take.”

OFFICER’S COMMENT

In consultation with the House Committee Chairperson, Administration has researched the protocols of other cities, being Stirling, Swan and Wanneroo. None of these cities issue invitations to previous Mayors or elected members for Council Christmas Dinners and/or Major Civic Functions.

It is also noted that a previous decision of Council outlined this year's invitation list for the Christmas Dinner and those invitations have been sent. The event is in a few days time, which will make it very difficult for any additional guests to attend with such extremely short notice.

VOTING REQUIREMENT

Simple Majority

MOVED Cr Baker, SECONDED Cr Kimber that as a matter of protocol, effective from and including this year's Christmas Party, all former Mayors (and their partners) of the City of Joondalup be extended a cordial invitation to attend the Annual City of Joondalup Christmas function, whatever form that function may take.

Discussion ensued.

The Motion was Put and

CARRIED (8/5)

In favour of the Motion: Crs Baker, Gollant, Kimber, Mackintosh, Nixon, O'Brien, Prospero and Walker

Against the Motion: Mayor Carlos, Crs Brewer, Caiacob, Hart and Hollywood

Cr O'Brien declared a financial interest in Item C260-12/03 – Notice of Motion No 3 – Mayor D Carlos – Christmas Hampers – Gift to Elected Members as the Item affects Cr O'Brien personally.

Cr Baker declared a financial interest in Item C260-12/03 – Notice of Motion No 3 – Mayor D Carlos – Christmas Hampers – Gift to Elected Members as the Item affects Cr Baker personally.

Crs O'Brien and Baker left the Chamber at this point, the time being 2154 hrs.

C261-12/03 NOTICE OF MOTION NO 3 – MAYOR D CARLOS – CHRISTMAS HAMPERS – GIFT TO ELECTED MEMBERS

In accordance with Clause 3.12 of the Standing Orders Local Law, Mayor Carlos has given notice of his intention to move the following motion at the Council meeting to be held on 2 December 2003:

That all former and current elected members be requested to refund to the City the cost of providing them with a Christmas Hamper in 2001 and 2002.

OFFICER'S COMMENT

The following information is submitted for Council's consideration in relation to the requirements for disclosure, and possible request for refund, of Christmas Hampers previously received from the City of Joondalup.

Section 5.63 of the *Local Government Act* specifies a number of interests that elected members are not required to disclose. One such interest is 'a prescribed interest' (Section 5.63(1)(h) LGA). Regulation 21 of the *Local Government (Administration) Regulation 1996* lists a number of interests which constitute prescribed interests for the purposes of section 5.63(1)(h) of the LGA. Among those interests is that provided by Regulation 21(f)(iii):

'an interest relating to a gift that can be accepted by a relevant person in accordance with a code of conduct to be observed by the relevant person.'

Under the City's Code of Conduct, elected members may accept token gifts with an estimated value of less than \$200. There is nothing in the Code of Conduct to suggest that it is confined to token gifts provided by individuals or organisations other than the City itself.

Accordingly, a token gift of an estimated value of less than \$200 provided by the City to elected members would appear to be exempt from the disclosure requirements of the Act. It follows that there was no requirement for elected members to disclose an interest in relation to the motion regarding Christmas hampers.

There does not appear to be a legal requirement for elected members, past or present, to refund the value of received Christmas Hampers. Any refund would be on a voluntary basis.

It should be noted that it was understood that the Christmas Hampers were originally given as a token of appreciation to the elected members' families. The meeting demands placed on elected members result in significant time away from their families throughout the year, and the Christmas Hampers were meant as a thank you to families for their support.

VOTING REQUIREMENT

Simple Majority

Crs Nixon and Walker left the Chamber at this point, the time being 2155 hrs.

MOVED Mayor Carlos, SECONDED Cr Caiacob that all former and current elected members be requested to refund to the City the cost of providing them with a Christmas Hamper in 2001 and 2002.

Discussion ensued.

Chief Executive Officer advised that as a result of legal advice received to the effect that the hampers fall within the category of being under \$200, there was no necessity for an elected member to declare a financial interest in the matter and that they would be exempt from such provision. Elected members have been advised of this advice.

The Motion was Put and

CARRIED (9/0)

In favour of the Motion: Mayor Carlos, Crs Brewer, Caiacob, Gollant, Hart, Hollywood, Kimber, Mackintosh, and Prospero

C262-12/03 **NOTICE OF MOTION NO 4 – CR L PROSPERO – USE OF CORPORATE CREDIT CARDS**

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr L Prospero has given notice of his intention to move the following motion at the Council meeting to be held on 2 December 2003:

That the CEO be requested to prepare a detailed report for consideration by the Audit Committee on the use of all City of Joondalup Corporate Credit Cards from December 1999.

OFFICER'S COMMENT

A report recommending that the Audit Committee examines the use of all corporate credit cards and how they are processed, approved and documented has been included in the agenda for the Council meeting being held on Tuesday 2 December 2003.

VOTING REQUIREMENTS

Simple Majority

Crs O'Brien and Walker entered the Chamber at this point, the time being 2156 hrs.

MOVED Cr Prospero, SECONDED Cr Hart that the CEO be requested to prepare a detailed report for consideration by the Audit Committee on the use of all City of Joondalup Corporate Credit Cards from December 1999.

The Motion was Put and

CARRIED (11/0)

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

C263-12/03 **NOTICE OF MOTION NO 5– CR M O'BRIEN - LEAVE OF ABSENCE FOR MAYOR CARLOS**

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr M O'Brien has given notice of his intention to move the following motion at the Council meeting to be held on 2 December 2003:

That Council pursuant to Section 2.25 of the Local Government Act 1995:

1 in compliance with Section 2.25 (1) GRANTS approval for Mayor Carlos to have six (6) calendar months Leave of Absence, if he so desires in the near or distant future, in order to accommodate his pre-2003 election, repeated intention, of undertaking an around Australia caravan trip;

- 2 *INSTRUCTS the City's Administration to seek the approval by the Minister for Local Government in accordance with Section 2.25 (2) for the abovementioned proposed leave;*
- 3 *RECORDS the Council's decision to grant leave in the minutes as required by Section 2.25 (3).*

OFFICER'S COMMENTS

The Local Government Act 1995 states:

- 2.25 (1) A council may, by resolution, grant leave of absence, to a member.
 (2) Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the council without the approval of the Minister.
 (3) The granting of the leave is to be recorded in the minutes of the meeting.

Local Law S5: Standing Orders further states in Section 3.3, Application for Leave of Absence from Council meeting:

Members wishing to apply for leave of absence should deliver, in advance, a written notice stating the period of leave to the Chief Executive Officer. Any request for leave of absence requires the approval of Council.

Mayor Carlos has not submitted a notice applying for leave of absence, as required by Section 3.3 of Local Law S5: Standing Orders.

VOTING REQUIREMENT

Simple Majority

Cr Baker entered the Chamber at this point, the time being 2157 hrs.

Mayor Carlos ruled the Notice of Motion **OUT OF ORDER**.

MOVED Cr O'Brien, SECONDED Cr Kimber that the meeting Dissent from the Mayor's ruling.

The Motion was Put and

TIED (6/6)

There being an equal number of votes, the Mayor exercised his casting vote and declared the Motion

LOST

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

Cr Nixon entered the Chamber at this point, the time being 2158 hrs.

PERSONAL EXPLANATION – CR O’BRIEN

In accordance with Clause 4.5 of the City’s Standing Orders Local Law, Cr O’Brien made the following personal explanation:

“Mr Mayor, the purpose was not to send you on leave, the purpose on it was to give you the opportunity if you so desired.”

C264-12/03 NOTICE OF MOTION NO 7 – CR J GOLLANT – CODE OF CONDUCT – CENSURE

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr J Gollant has given notice of her intention to move the following motion at the Council meeting to be held on 2 December 2003:

That:

- 1 in view of Cr Hart’s behaviour in the City’s Administration Building on 6 November 2003 being a serious breach of our Councillors’ Code of Conduct, and the previous resolutions of Council concerning the CEO’s contract of employment:*
 - (a) Cr Hart be hereby formally censured by Council;*
 - (b) Cr Hart be hereby requested to apologise in writing to our City’s CEO, his staff and her fellow Councillors, within seven (7) days of today’s date;*
 - (c) Cr Hart have all her Councillors’ Dining Room privileges revoked for six (6) months from today’s date, in the event that she does not comply with paragraph (b);*
 - (d) Cr Hart be hereby requested to repeat her Councillor Induction Program and WALGA Training, in particular, insofar as it relates to the roles and functions of a Councillor, the CEO and Council’s administration;*
- 2 Council requests that the CEO give consideration to Cr Hart being excluded from entering the City’s Administration Building (save for areas open to the public) without the express prior written consent of the CEO;*
- 3 Council requests that a full investigation be carried out to determine whether criminal charges can be laid pertaining to the breach of security and misuse of Council property, and further selects lawyers Minter Ellison for this purpose;*
- 4 Council hereby requests that the Minister for Local Government and Regional Development, consider pursuant to Section 9.13(A) of the Local Government Act 1995, whether Cr Hart’s actions constitute contravention of the Act, specifically Sections 5.103. (1), 5.93. and 8.35(2) and if so whether he intends to use his powers under the Act to give notice to Cr Hart to further cease such behaviour and/or pursuant to Section 9.14(a) issue a fine of \$5000.”*

OFFICER'S COMMENT

The City's Code of Conduct outlines the basic conduct standards that all elected members are expected to abide by as representatives of the City. Elected members at their swearing in and in their induction process, undertake to maintain certain standards including the Code of Conduct, in keeping with their elected office.

Where an elected member has been deemed by the Council to have committed serious breaches of the Code of Conduct, it is appropriate that Council imposes some penalty on the offender. In relation to point 1 of the Notice of Motion and in this instance it is up to the Council to decide what action it considers would be appropriate under the circumstances.

In relation to point 2 of the Notice of Motion, the CEO on 20 November 2003 has removed all elected members access to the Administration Building with the exception of those areas that are accessible by the general public. Access to Directors and Managers has been restricted to meetings by appointment.

In relation to point 3 of the Notice of Motion, it is considered that the alleged breach of security and misuse of Council property is a civil matter. As such it is a matter that should be dealt with by the Police.

In relation to point 4 of the Notice of Motion, it would appear appropriate that the request be referred to the Minister for Local Government and Regional Development for determination.

VOTING REQUIREMENT

Simple Majority

MOVED Cr Gollant, SECONDED Cr Kimber that:

- 1 in view of Cr Hart's behaviour in the City's Administration Building on 6 November 2003 being a serious breach of our Councillors' Code of Conduct, and the previous resolutions of Council concerning the CEO's contract of employment:**
 - (a) Cr Hart be hereby formally censured by Council;**
 - (b) Cr Hart be hereby requested to apologise in writing to our City's CEO, his staff and her fellow Councillors, within seven (7) days of today's date;**
 - (c) Cr Hart have all her Councillors' Dining Room privileges revoked for six (6) months from today's date, in the event that she does not comply with paragraph (b);**
 - (d) Cr Hart be hereby requested to repeat her Councillor Induction Program and WALGA Training, in particular, insofar as it relates to the roles and functions of a Councillor, the CEO and Council's administration;**

- 2 Council requests that the CEO give consideration to Cr Hart being excluded from entering the City's Administration Building (save for areas open to the public) without the express prior written consent of the CEO;
- 3 Council requests that a full investigation be carried out to determine whether criminal charges can be laid pertaining to the breach of security and misuse of Council property, and further selects lawyers Minter Ellison for this purpose;
- 4 Council hereby requests that the Minister for Local Government and Regional Development, consider pursuant to Section 9.13(A) of the Local Government Act 1995, whether Cr Hart's actions constitute contravention of the Act, specifically Sections 5.103. (1), 5.93. and 8.35(2) and if so whether he intends to use his powers under the Act to give notice to Cr Hart to further cease such behaviour and/or pursuant to Section 9.14(a) issue a fine of \$5000.

Cr Hart declared an interest that may affect her impartiality in Item C263-12/03 – Notice of Motion No 7 – Cr J Gollant – Code of Conduct – Censure as this Item relates to Cr Hart personally.

Cr Hart left the Chamber at this point, the time being 2159 hrs.

Discussion ensued.

Chief Executive Officer declared a financial interest in Item C263-12/03 - Notice of Motion No 7 – Cr J Gollant – Code of Conduct – Censure as this Item may impact on Mr Smith's Contract of Employment.

Chief Executive Officer left the Chamber at this point, the time being 2206 hrs.

MOVED Mayor Carlos, SECONDED Cr Hollywood that the motion LIE ON THE TABLE.

The Motion was Put and

LOST (4/8)

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

Discussion ensued.

During discussion, Cr Prospero left the Chamber at 2220 hrs and returned at 2222 hrs.

At the request of Mayor Carlos, Cr Hollywood withdrew inappropriate comments he made.

The Motion Moved Cr Gollant, Seconded Cr Kimber was Put and

CARRIED (8/4)

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

Cr Hart entered the Chamber at this point, the time being 2240 hrs.

Cr Walker left the Chamber at this point, the time being 2240 hrs.

ADJOURNMENT OF MEETING

The Mayor adjourned the meeting for a period of ten (10) minutes, the time being 2250 hrs.

The Meeting **RESUMED** at 2300 hrs, with the following members being present:

MAYOR D CARLOS
Cr L PROSPERO
Cr P KIMBER
Cr T BREWER
Cr C BAKER
Cr J F HOLLYWOOD, JP
Cr A NIXON
Cr S HART
Cr M O'BRIEN
Cr J GOLLANT
Cr C MACKINTOSH
Cr M CAIACOB

C265-12/03 NOTICE OF MOTION NO 8 – CR C MACKINTOSH – GOVERNANCE OF THE CITY BY MAYOR CARLOS

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr C Mackintosh has given notice of her intention to move the following motion at the Council meeting to be held on 2 December 2003:

That the Council of the City of Joondalup NOTES the following matters regarding the Mayor's governance of our City:

- 1 The view of the Department of Local Government that the behaviour of the public at the Annual General Meeting of Electors held on Monday 17 November 2003 was appalling;*
- 2 That Mayor Carlos chaired the said meeting and under the Local Government Act 1995 was responsible for the conduct of the meeting;*
- 3 That the Mayor's chairing of the said meeting was appalling.*

OFFICER'S COMMENTS

A copy of the transcript of the meeting has been circulated to all elected members and the Department of Local Government and Regional Development. To date no formal comment has been received from the Department of Local Government and Regional Development concerning the conduct of the meeting.

VOTING REQUIREMENT

Simple Majority

This Notice of Motion was not pursued, therefore it

LAPSED

Chief Executive Officer declared a financial interest in Notice of Motion No 9 – Censure of Elected Member as this Item may impact on Mr Smith's Contract of Employment.

C266-12/03

NOTICE OF MOTION NO 9 – CR P KIMBER – CENSURE OF ELECTED MEMBER

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr P Kimber has given notice of his intention to move the following motion at the Council meeting to be held on 2 December 2003:

That:

1 in view of Cr Hart's behaviour in the City's Administration Building on 6 November 2003, our Councillors' Code of Conduct, and the previous resolutions of Council concerning the CEO's contract of employment:

- (a) Cr Hart be hereby formally censured;*
- (b) Cr Hart be hereby requested to apologise in writing to our City's CEO, his staff and her fellow Councillors, within seven (7) days of today's date;*
- (c) Cr Hart have all her Councillors' Dining Room privileges revoked for six (6) months from today's date, in the event that she does not comply with paragraph (b);*
- (d) Cr Hart be hereby requested to repeat her Councillor Induction Program/Training, in particular, insofar as it relates to the roles and functions of a Councillor, the CEO and Council's administration;*

2 Council requests that the CEO give consideration to Cr Hart being excluded from entering the City's Administration Building (save for areas open to the public) without the express prior written consent of the CEO.

OFFICER'S COMMENT

The points raised in this Notice of Motion are consistent with part of Notice of Motion 7 submitted by Cr Gollant and therefore the comment relating to those points is the same and detailed below.

The City's Code of Conduct outlines the basic conduct standards that all elected members are expected to abide by as representatives of the City. Elected members at their swearing in and in their induction process, undertake to maintain certain standards including the Code of Conduct, in keeping with their elected office.

Where an elected member has been deemed by the Council to have committed serious breaches of the Code of Conduct, it is appropriate that Council imposes some penalty on the offender. In relation to point 1 of the Notice of Motion and in this instance it is up to the Council to decide what action it considers would be appropriate under the circumstances.

In relation to point 2 of the Notice of Motion, the CEO on 20 November 2003 has removed all elected members access to the Administration Building with the exception of those areas that are accessible by the general public. Access to Directors and Managers has been restricted to meetings by appointment.

VOTING REQUIREMENT

Simple Majority

This Notice of Motion was not pursued, therefore it

LAPSED

PERSONAL EXPLANATION – CR HART

In accordance with Clause 4.5 of the City's Standing Orders Local Law, Cr Hart made the following personal explanation:

“I would like it on the record that after the incident that you have just dealt with, I wasn't..... by Crs Kimber, Prospero, Baker, and Brewer. Cr Nixon did contact me by email and my replyI'll let Cr Nixon tell you what the reply was. Cr O'Brien, Cr Gollant, well Cr Gollant did walk up to me at the JPs Appreciation Dinner and pointed her finger and said “After what you did today”, and I said “What are you talking about?” and then she told me she didn't want to talk about it. Cr MackintoshI feel I have been in a Kangaroo Court because you all had my punishment beforeI haven't spoken on this. Nobody bothered to ask me what happened. So I knew the motion would get passed, and I bet you all it was eight against or for the motion. Just a question, did we get legal advice on this, as we were advised at the end of one meeting?”

Chief Executive Officer advised legal advice had been obtained.

“ And legal advice was sought on this issue where we can't get a second opinion on the issueI would like it recorded that we can't get a legal second opinion, I can't get information to make an informed decision. The Mayor can't get any legal advice when God knows how many dollars we've spent on the CEO issue and I believe there was a Kangaroo Court. Not one of you came to speak to me about it. In fact, you have all stopped talking to me and that's okay, that's fine. I have had phones slammed down by Councillors, a Councillor's wife. That's all I have to say, it was a Kangaroo Court.”

PERSONAL EXPLANATION – CR GOLLANT

In accordance with Clause 4.5 of the City's Standing Orders Local Law, Cr Gollant made the following personal explanation:

“I just want the opportunity. Cr Hart made a couple of comments about actions of mine and I just want to be on record in saying that I disagree with her version of events. Thankyou.”

C267-12/03

MOTION TO GO BEHIND CLOSED DOORS - [02154] [08122]

MOVED Cr Kimber SECONDED Cr Baker that in accordance with clause 5.6 of the City's Standing Orders Local Law and Section 5.23 of the Local Government Act 1995, the meeting be held BEHIND CLOSED DOORS to enable consideration to be given to the following items:

- 1 Item 1 - Confidential - Notice Of Motion – Cr J Hollywood - Legal Advice on Public Comments Relating to the Standing Committee on Public Administration And Finance, and Chief Executive Officer Employment Related Matters being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Mark Loader, Manager Human Resources
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 2 Item 2 Confidential - Notice of Motion – Cr J Hollywood - Standing Committee on Public Administration and Finance - Legal Expenses being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Mark Loader, Manager Human Resources
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 3 Item 3 Confidential – Notice of Motion – Cr J Hollywood – Request for variation to Chief Executive Officer's Contract of Employment being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Mark Loader, Manager Human Resources
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 4 Item 4 Confidential - Notice of Motion – Cr C Baker - Legal Advice on Public Comments relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer Employment Related Matters being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Mark Loader, Manager Human Resources
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 5 Item 5 Confidential - Notice of Motion – Cr C Baker - Standing Committee On Public Administration and Finance - Legal Expenses being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Mark Loader, Manager Human Resources
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 6 Item 6 Confidential – Notice Of Motion – Cr C Baker – Request For Variation To Chief Executive Officer’s Contract Of Employment being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Mark Loader, Manager Human Resources
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 7 Item 7 Confidential - Notice of Motion – Mayor D Carlos - Refund of CEO Corporate Credit Card Expenditure being a matter relating to legal advice, with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Peter Schneider, Director Corporate Services and Resource Management**

Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Mark Loader, Manager Human Resource Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk

8 Item 8 Confidential - Notice of Motion – Mayor D Carlos – Council Credit Cards being a matter relating to legal advice with the following persons in attendance:

Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk

9 Item 9 Confidential - Notice of Motion – Mayor D Carlos – Telephone Accounts being a matter affecting an employee, with the following persons in attendance:

Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk

10 Item 10 Confidential - Notice of Motion – Mayor D Carlos – Information on CEO Salary Package being a matter affecting an employee, with the following persons in attendance:

Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk

- 11 Item 11 Confidential - Notice Of Motion – Mayor D Carlos – Salary Packages – Executive and Business Managers being a matter affecting employees, with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 12 Item 12 Confidential - Notice of Motion – Mayor D Carlos – Expenditure by former Mayor being a matter relating to legal advice, with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 13 Item 13 Confidential - Notice of Motion – Mayor D Carlos – Staff Salary Information being a matter affecting employees, with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk**

- 14 Notice of Motion No 6 – Cr J Gollant – Breach of Code of Conduct being a matter affecting an employee, with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management**

Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk

15 Notice of Motion No 10 – Cr P Kimber – Breach of Code of Conduct being a matter affecting an employee, with the following persons in attendance:

Mr Neil Douglas, Minter Ellison
Mr Denis Smith, Chief Executive Officer
Mr Peter Schneider, Director Corporate Services and Resource Management
Mr Clayton Higham, Director Planning and Community Development
Mr Kevin Robinson, Manager Audit and Executive Services
Mr Steve Cole, Governance Review Board
Mr Ian Mickel, Governance Review Board
Mr Cliff Frewing, Governance Review Board
Mr Bruce Wittber – Governance Review Board
Minute Clerk

The Motion was Put and

CARRIED (8/4)

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

Members of the staff (with the exception of Director Planning and Community Development, Manager Audit and Executive Services, Manager Human Resource Services and the Minute Clerk) left the Chamber at this point, the time being 2258 hrs.

Members of the public and press were given notice to vacate the Chamber at 2258 hrs.

Members of the public and press were advised that, in accordance with Section 5.23 of the Local Government Act 1995, the meeting was required to go behind closed doors to consider issues relating to legal advice and affecting employees. Further, Clause 5.6 of the City's Standing Orders Local Law requires that:

“Upon the carrying of a resolution to close a meeting to the public, the Chairperson shall direct all persons other than members and such employees as the meeting may resolve to permit to remain, to leave the Council Chambers and every such person shall forthwith comply with such direction.”

Further notice to vacate the Chamber was given to members of the public and press at 2308 hrs.

C268-12/03

MEETING TO GO TO OPEN DOORS – [02154]

MOVED Cr Hollywood, SECONDED Cr Hart that the meeting be now held with OPEN DOORS, the time being 2339 hrs.

The Motion was Put and

CARRIED

C269-12/03 MEETING BE NOW CLOSED – [02154]

MOVED Cr Gollant SECONDED Cr Hollywood that in accordance with Clause 5.7 of the City's Standing Orders Local Law, the MEETING BE NOW CLOSED, the time being 2340 hrs.

The Motion was Put and

CARRIED (7/5)

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

OUTSTANDING ITEMS OF BUSINESS

In accordance with Clause 5.7 of the City's Standing Orders Local Law, the following items of business outstanding from the notice paper for the ordinary meeting of the Council held on 2 December 2003 will be carried forward to the notice paper for the next ordinary meeting of the Council to be held on 16 December 2003:

- ITEM 1 CONFIDENTIAL - NOTICE OF MOTION – CR J HOLLYWOOD - LEGAL ADVICE ON PUBLIC COMMENTS RELATING TO THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE, AND CHIEF EXECUTIVE OFFICER EMPLOYMENT RELATED MATTERS – [70544]
- ITEM 2 CONFIDENTIAL - NOTICE OF MOTION – CR J HOLLYWOOD - STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE - LEGAL EXPENSES – [24549, 00561, 58527, 70544]
- ITEM 3 CONFIDENTIAL – NOTICE OF MOTION – CR J HOLLYWOOD – REQUEST FOR VARIATION TO CHIEF EXECUTIVE OFFICER'S CONTRACT OF EMPLOYMENT
- ITEM 4 CONFIDENTIAL - NOTICE OF MOTION – CR C BAKER - LEGAL ADVICE ON PUBLIC COMMENTS RELATING TO THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE, AND CHIEF EXECUTIVE OFFICER EMPLOYMENT RELATED MATTERS – [70544]
- ITEM 5 CONFIDENTIAL - NOTICE OF MOTION – CR C BAKER - STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE - LEGAL EXPENSES – [24549, 00561, 58527, 70544]
- ITEM 6 CONFIDENTIAL – NOTICE OF MOTION – CR C BAKER – REQUEST FOR VARIATION TO CHIEF EXECUTIVE OFFICER'S CONTRACT OF EMPLOYMENT
- ITEM 7 CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS - REFUND OF CEO CORPORATE CREDIT CARD EXPENDITURE

- ITEM 8 CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – COUNCIL CREDIT CARDS
- ITEM 9 CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – TELEPHONE ACCOUNTS
- ITEM 10 CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – INFORMATION ON CEO SALARY PACKAGE
- ITEM 11 CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – SALARY PACKAGES – EXECUTIVE AND BUSINESS MANAGERS
- ITEM 12 CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – EXPENDITURE BY FORMER MAYOR
- ITEM 13 CONFIDENTIAL - NOTICE OF MOTION – MAYOR D CARLOS – STAFF SALARY INFORMATION
- CONFIDENTIAL - NOTICE OF MOTION NO 6 – CR J GOLLANT – BREACH OF CODE OF CONDUCT
- CONFIDENTIAL - NOTICE OF MOTION NO 10 – CR P KIMBER – BREACH OF CODE OF CONDUCT
- MOTION TO LIE ON THE TABLE NO 1 - 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)
- MOTION TO LIE ON THE TABLE NO 2 – MEDIA ACCESS TO MATTERS OF PUBLIC INTEREST

DATE OF NEXT MEETING

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 16 DECEMBER 2003** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup