

WARD - All

CJ041116_BRF.DOC:ITEM 4

PURPOSE

This report is to provide details and address the recommendations contained within the City of Joondalup Governance Review, 2003.

EXECUTIVE SUMMARY

A Governance Review Panel (the Panel) established in September 2003 comprising of:

- Mr Steve Cole, Director Capacity Building – Department of Local Government and Regional Development – (Chairman);
- Councillor Ian Mickel, President – Shire of Esperance;
- Mr Cliff Frewing, Executive Manager – Financial and Information Services – City of Swan and President, WA Division of Local Government Managers Australia;
- Mr Bruce Wittber, Consultant (Executive Officer).

Detailed Terms of Reference were developed for the panel with the general scope of them being for the panel to make recommendations of the level of governance being provided to the residents of the City of Joondalup.

Members of the Panel attended various meetings of the Council, including briefing and strategy sessions. The Panel also conducted a questionnaire of a majority of Councillors, CEO and Directors.

Prior to the completion of the review, the Minister for Local Government and Regional Development suspended the elected Council, pending the outcome of an Inquiry. As a result of the decision of the Minister, it was agreed to continue with the Review and present the recommendations.

Each of the recommendations has been addressed on an individual basis.

BACKGROUND

The City of Joondalup was established on 1 July 1998 as a result of the splitting of the former City of Wanneroo into two (2) new local governments.

The division of the former City of Wanneroo was overseen by five (5) Joint Commissioners, following the suspension of the former elected Council of the City of Wanneroo in late 1997. The former Council was reinstated immediately prior to the Governor's Orders disbanding the former City of Wanneroo and establishing the two (2) new local governments.

The City of Joondalup conducted its inaugural elections in December 1999 and has had subsequent elections in May 2001 and 2003.

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The following terms of reference for the governance review were agreed to by the City of Joondalup in September 2003:

The Governance Review panel will assess and make recommendations on the operations of the Council of the City of Joondalup with particular reference to –

- 1 The development of an appropriate working relationship between elected members that will achieve good government for the City and an appropriate public image for the local government within the community.*
- 2 Whether or not the behaviour of elected members related to their local government responsibilities, both personal and collective, is appropriate in terms of the Council's responsibilities and public perception.*
- 3 The ordinary meetings of Council with particular regard to meeting procedures, behaviour of participants, the operation of Standing Orders and whether those Standing Orders require amendment.*
- 4 Whether or not the relationships between elected members are having, or could be perceived to be having, an impact on the fairness, objectivity and outcome of the decisions being made by Council.*
- 5 Whether the Code of Conduct is appropriate and adherence to that code.*
- 6 The nature and effectiveness of the working relationship between elected members and senior employees.*
- 7 Whether the information and advice to elected members from the executive is appropriate and sufficient and how that advice is being received and used in Council's deliberations and determination of matters.*

- 8 *The adherence to the requirements of the Local Government Act that the Mayor and CEO are to “liaise on the local government’s affairs and performance of its functions.”*
- 9 *The nature and effectiveness of the Council decision-making structure.*
- 10 *Whether the Council decision-making processes are fair, open and objective (in accordance with the Act and community interest).*
- 11 *Whether or not the nature and source of statements to the media regarding Council matters and decisions are appropriate, fair, reasonable and within the context of the Local Government Act.*
- 12 *The participation, nature and effectiveness of the elected member induction process and on-going development opportunities for elected members.*

The governance review report provides further background to the establishment of the review.

“The City of Joondalup experienced significant change in elected membership at the May 2003 elections. The new Council struggled with internal dissention from the start with the on-going employment of the CEO, Mr Denis Smith the primary catalyst. A Governance Review Panel (the Panel) was established in September 2003 as a means of restoring Council equilibrium and function, but unfortunately Council dysfunction accelerated so that in December 2003, the Minister for Local Government and Regional Development acted in accordance with s8.19 of the Local Government Act 1995 and suspended the Council. A panel of Commissioners has taken the place of the elected body and they will run the Council until an inquiry is held and a decision is made on whether the Council be dismissed or reinstated.

Despite the Council being suspended, the decision was taken to complete the governance review on the basis that it would document some of the issues at the City and provide guidance for an in-coming Council.”

DETAILS

The procedure for the review process was as follows:

- The Chairman (of the Panel) attended a number of meetings discussing the appointment of the Governance Review Panel and the relevant Terms of Reference. The Council in September 2003 agreed to the appointment and allocated funds for the process.
- The Governance Review Panel proceeded to develop an extensive questionnaire, addressing the Terms of Reference, with a separate document for the Mayor, Councillors, Chief Executive Officer and three Directors.
- The Executive Officer met with the CEO during October to progress the review.

- Each elected member and officer was invited to complete the questionnaire and where appropriate provide supporting documentation to justify their opinion.
- Twelve of the 15 elected members completed the questionnaire, but this did not include the Mayor.
- The CEO and three directors completed the questionnaire.

The Chairman and Executive Officer attended an ordinary meeting of the Council on 11 November 2003 and also attended a Strategic Briefing session on 18 November 2003.

The Governance Review Panel met with the Mayor and Councillors at an informal meeting on 20 November 2003 at which time the general format of the process was explained to those members in attendance. It should be noted that neither the Chief Executive Officer nor any City staff were present on this occasion.

The Panel then conducted a series of interviews commencing on 27 November 2003 and throughout the week 1-5 December 2003 with the Mayor and Councillors. Further interviews were arranged with the Executive and one Councillor on 11 December 2003. Only one Councillor was not interviewed during this period.

The Panel also took the opportunity to attend a Special Meeting of Council on Monday 1 December and 3 December together with an ordinary meeting on 2 December.

Statutory Provision:

The Governance Review was carried out in agreement between the Department of Local Government and Regional Development and the City and was to address twelve (12) Terms of Reference, as agreed by the parties. Such a review is in keeping with the provisions of Section 8.3 of the Local Government Act 1995.

Consultation:

N/A

Policy Implications:

As a result of the Governance Review, there will be the need to review a number of the corporate policies and in particular the Code of Conduct, Standing Orders Local Law and the guidelines relating to public question time.

Financial Implications:

N/A

Strategic Implications:

The City's Strategic Plan contains the following references to our Values and Guiding Principles:

Trust

- We will have an environment of openness and transparency.
- We will make information accessible.

Leadership through Partnerships and Networks

- We will develop a supportive and trusting relationship with our community.

People Management

- We will invest in best practice workforce management.
- We will encourage employee commitment and innovation.

Sustainability Implications:

The City recognises its responsibilities to work with its community towards an environmentally, socially and economically sustainable future. Consideration of the recommendations of the Governance Review Panel will enhance the social aspect of sustainability by demonstrating improved governance practices for the benefit of the community of the City of Joondalup.

COMMENT

The Panel through its report proposed a number of recommendations as a result of its observations. A copy of the complete report has been previously submitted to the Joint Commissioners.

It must be acknowledged that the operations and relationship of the elected Council at the time of the review were considerably strained. A few of the recommendations highlight this environment. The implementation of some of the suggested recommendations may be burdensome on some of the operations where an elected Council and its administration are working together effectively in the best interests of the community.

Each of the recommendations proposed by the Panel have been addressed and commented on; on an individual basis. As a result of evaluating each of the recommendations, a series of recommendations have been presented for consideration by the Joint Commissioners.

ATTACHMENTS

Attachment 1 Responses to Recommendations of Governance Review

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

- 1 RECEIVE the City of Joondalup Governance Review 2003 – Final Report;
- 2 UNDERTAKE a review of the:
 - (a) guidelines relating to public question time;
 - (b) protocols and procedures relating to strategy and briefing sessions;
 - (c) City's Standing Orders Local Law;
 - (d) City's Code of Conduct;
 - (e) electronic controls within the Council Chamber;
- 3 ESTABLISH clear protocols relating to:
 - (a) the attendance of invited guests or specialist advisors to Council meetings;
 - (b) the working relationship between the Mayor and CEO that complements the relevant sections of the Local Government Act 1995;
 - (c) elected members requiring access to information and requests for action;
 - (d) necessary requirements for proposing amendments at Council meetings;
- 4 in relation to the CEO's employment terms and conditions, AGREE:
 - (a) to provide all elected members with a complete copy of the current CEO's contract and details of relevant performance reviews;
 - (b) that future City of Joondalup CEO employment contract be based on one of the pro forma contracts developed specifically for Western Australian local government;

- (c) to review the performance appraisal process for future CEOs to ensure it best suits the Joint Commissioners' requirements;
- 5 AGREE to develop a comprehensive induction programme and ongoing training programme for elected members, focusing on:
- (a) roles and responsibilities;
 - (b) meeting procedures;
 - (c) Code of Conduct;
 - (d) Local Government Act 1995 and associated legislation;
 - (e) industry related support programmes;
- 6 MAKE a submission to the Minister for Local Government and Regional Development to draft appropriate amendments to the Local Government Act 1995 to allow for alternative spokesman to be appointed by the Council other than the Mayor where resolved by the Council;
- 7 SUPPORT that recommendations 17 to 24 detailed within the City of Joondalup – Governance Review, 2003 – Final Report be referred to the Western Australian Local Government Association and the Department of Local Government and Regional Development for consideration across the industry.

MOVED Cmr Smith, SECONDED Cmr Fox that:

- 1 the Joint Commissioners DEFER consideration of Responses to Governance Review to allow it to be considered at the same time as motions from the Annual Meeting of Electors that relate to this matter;**
- 2 the Acting CEO be requested to write to the Minister advising that the community is requesting the release of the Governance Report for public information and asking whether the Minister is prepared to release the report;**
- 3 nothing in this resolution prevents the Administration from carrying out preliminary administrative tasks in connection with a review of:**
 - Guidelines relating to public question time**
 - Protocols and procedures relating to strategy and briefing sessions**
 - Standing Orders**
 - Code of Conduct**
 - Electronic controls within the Council Chamber**

Discussion ensued.

AMENDMENT MOVED Cmr Anderson, SECONDED Cmr Clough that an additional dot point be added in Point 3 as follows:

“Induction program for Mayors and Councillors/Commissioners;”

Cmr Anderson spoke to the amendment.

The Amendment was Put and

CARRIED UNANIMOUSLY (5/0)

The Original Motion, as amended, being:

That:

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 - Protocols and procedures relating to strategy and briefing sessions**
 - Standing Orders**
 - Code of Conduct**
 - Electronic controls within the Council Chamber**
 - Induction program for Mayors and Councillors/Commissioners**

was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf161104.pdf](#)