

Minutes **Special Meeting of Council**

SPECIAL MEETING OF THE COUNCIL OF THE CITY OF JOONDALUP HELD
IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE,
JOONDALUP

ON TUESDAY, 23 DECEMBER 2008

CITY OF JOONDALUP

MINUTES OF SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 23 DECEMBER 2008

DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting open at 1830 hrs.

ATTENDANCES

Mayor:

T PICKARD

Councillors:

Cr KERRY HOLLYWOOD	North Ward
Cr TOM McLEAN	North Ward - <i>Deputy Mayor</i>
Cr TRONA YOUNG	North-Central Ward
Cr MARIE MACDONALD	Central Ward
Cr GEOFF AMPHLETT	Central Ward
Cr MICHELE JOHN	South-West Ward
Cr MIKE NORMAN	South-West Ward
Cr SUE HART	South-East Ward
Cr BRIAN CORR	South-East Ward
Cr RUSS FISHWICK	South Ward

Officers:

MR GARRY HUNT	Chief Executive Officer
MR IAN COWIE	Director, Governance & Strategy
MR MARTYN GLOVER	Director, Infrastructure Services
MS JULIE CHENG	Principal Legal and Compliance Advisor
MRS LESLEY TAYLOR	Administrative Secretary

In Attendance

Mr Michael Ferguson , Partner – Minter Ellison
Mrs Cheryl Edwardes, Special Counsel – Minter Ellison
Ms Margie Tannock, Senior Associate - Minter Ellison

There was 1 member of the Public in attendance.

PUBLIC QUESTION TIME

The following questions were submitted verbally at the Special Council meeting held on 16 December 2008:

Mr S Magyar, Heathridge:

Q1 To what extent does the City liaise with the West Australian Local Government Association (WALGA) to ensure the City's contracts are compliant?

A1 Response by Mayor Pickard: WALGA has a preferred supplier program and standardised contracts which are offered to local governments.

The majority of the City's contracts are standardised and comply with Australian Standards.

Q2 Is Council aware of any other local governments that have problems with the contractor involved?

A1 The City is aware that the contractor has been the subject of issues with other local governments.

PUBLIC STATEMENT TIME

Mr S Magyar, Heathridge:

Mr Magyar spoke in relation to appropriate mechanisms being put in place to monitor the performance of contractors who undertake work for the City of Joondalup to ensure that they comply with the conditions as set out in any contract agreement in place.

APOLOGIES AND LEAVE OF ABSENCE

Apologies: Cr Albert Jacob, JP and Cr Fiona Diaz

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

Nil.

DECLARATIONS OF FINANCIAL INTEREST

Nil.

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS

JSC5-12/08 - CONFIDENTIAL REPORT - LEGAL MATTER

MOTION TO GO BEHIND CLOSED DOORS - [02154] [29610]

MOVED Mayor Pickard, SECONDED Cr Young that in accordance with section 5.23 of the Local Government Act 1995 and clause 67 of the City of Joondalup's Standing Orders Local Law 2005, this Meeting of the Council sit behind closed doors to consider Item JCS5-12/08 – Confidential Report – Legal matter relating to a past contract as legal advice has been obtained which relates to the matter under discussion, with the following employees and persons being in attendance:

- Chief Executive Officer - Mr Garry Hunt
- Director Governance & Strategy - Mr Ian Cowie
- Director Infrastructure Services - Mr Martyn Glover
- Principal Legal and Compliance Advisor - Ms Julie Cheng
- Administrative Secretary - Mrs Lesley Taylor
- Mr Michael Ferguson, Partner – Minter Ellison
- Mrs Cheryl Edwardes, Special Counsel – Minter Ellison
- Ms Margie Tannock, Senior Associate - Minter Ellison

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, John, Macdonald, McLean, Norman and Young.

The member of the public present left the Chamber at this point, the time being 1842 hrs.

JSC5-12/08 CONFIDENTIAL REPORT – LEGAL MATTER

WARD: All

**RESPONSIBLE
DIRECTOR:** Mr Garry Hunt
Chief Executive Officer

This Item is Confidential – Not for Publication

A full report was provided to Elected Members under separate cover.

MOVED Mayor Pickard, SECONDED Cr Amphlett that Council:

- 1 AUTHORISES** the Chief Executive Officer to commence legal proceedings in the Supreme Court of Western Australia against Turfmaster Pty Ltd for breach of contract;
- 2 In taking the legal action, seek a determination from the Supreme Court of Western Australia that Turfmaster Pty Ltd should replace significant native trees on a 'like for like' basis.**

Mayor Pickard provided the following reasons for his departure from the Officer's Recommendation:

- It is incumbent on the City to seek restitution from the contractor in a public forum which allows the inappropriate behaviour to be exposed.
- The significant damage caused to the City's property and native flora.
- The potential damage to the reputation of the City of Joondalup.

Discussion ensued.

The Motion was Put and

CARRIED (6/5)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Hollywood, John, Macdonald and Norman

Against the Motion: Crs Corr, Fishwick, Hart, McLean and Young

MOTION TO GO TO OPEN DOORS - [02154] [29610]

MOVED Mayor Pickard, SECONDED Cr Young that in accordance with clause 67 of the City of Joondalup's Standing Orders Local Law 2005, the Meeting of Council be held with open doors, the time being 2045 hrs.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, John, Macdonald, McLean, Norman and Young.

No member of the public was present in the Chamber at this time.

In accordance with the City's Standing Orders Local Law 2005, Mayor Pickard read aloud the motion in relation to JSC5-12/08 – Confidential Report – Legal Matter.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 2049 hrs; the following Elected Members being present at that time:

MAYOR T PICKARD
Cr KERRY HOLLYWOOD
Cr TOM MCLEAN
Cr TRONA YOUNG
Cr MARIE MACDONALD
Cr GEOFF AMPHLETT
Cr MICHELE JOHN
Cr MIKE NORMAN
Cr SUE HART
Cr BRIAN CORR
Cr RUSS FISHWICK