

minutes

Policy Committee

MEETING HELD ON **TUESDAY 27 APRIL 2010**

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CITY OF JOONDALUP**MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 2, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY, 27 APRIL 2010****ATTENDANCE*****Committee Members***

Cr Kerry Hollywood
Cr John Chester
Mayor Troy Pickard
Cr Trona Young
Cr Liam Gobbert

Presiding Person
Deputy Presiding Person

*Absent from 1811 hrs to 1813 hrs
and from 1831 hrs to 1833 hrs*

Cr Fiona Diaz

Observers

Cr Brian Corr
Cr Mike Norman

Officers:

Mr Garry Hunt
Mr Jamie Parry
Mr Mike Tidy
Mr Martyn Glover
Mrs Lesley Taylor

Chief Executive Officer
Director, Governance and Strategy
Director, Corporate Services
Director, Infrastructure Services
Administrative Secretary

from 1804 hrs

DECLARATION OF OPENING

The Presiding Person declared the meeting open at 1800 hrs.

APOLOGIES/LEAVE OF ABSENCE

Apology: Cr Hamilton Prime

CONFIRMATION OF MINUTES**MINUTES OF THE POLICY COMMITTEE HELD ON 23 FEBRUARY 2010**

MOVED Cr Diaz, SECONDED Cr Gobbert that the minutes of the meeting of the Policy Committee held on 23 February 2010 be confirmed as a true and correct record.

Cr Chester questioned the accuracy of the Sustainability statement made in relation to the resolution regarding Item 2 – Review of Council Policy 1.2 – Public Participation – (Page 15 refers) of the Policy committee meeting of 23 February 2010, however, as the Item was contained within the agenda for the meeting of 27 April 2010 (Item 3 refers), it was agreed this statement be reviewed during consideration of the Item.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Director, Corporate Services entered the Room at 1804 hrs.

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

Nil.

DECLARATIONS OF INTEREST

Disclosure of Financial Interests

Nil.

Disclosure of interest affecting impartiality

Elected Members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are required to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected Member/employee is also encouraged to disclose the nature of the interest.

Name/Position	Mr Garry Hunt, Chief Executive Officer
Item No/Subject	Item 2 – Review of Policy – Representation for Elected Members and Employees
Nature of interest	Interest that may affect impartiality
Extent of Interest	The policy may impact on the Chief Executive Officer

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

Nil.

PETITIONS AND DEPUTATIONS

Nil.

REPORTS

ITEM 1 POLICY - ELECTED MEMBERS – ALLOWANCES

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 26176

ATTACHMENTS: Attachment 1 Policy - Elected Members - Allowances

PURPOSE/EXECUTIVE SUMMARY

The Local Government Officers' Award has previously been used to calculate travel expenses for Elected Members.

Following a review of all Federal Local Government Awards, the Local Government Officers' Award was replaced with the Local Government Award 2010. As the Local Government Award 2010 does not contain a table of mileage rates, it is recommended that Policy – Elected Members – Expenses be amended to reflect a new reference point to calculate travel expenses for Elected Members.

BACKGROUND

Policy – Elected Members – Allowances outlines the support and allowances available to Elected Members.

Clause 7.3(c) of the Policy states that *“Travel expenses claimed under this policy are to be calculated in accordance with the rate per kilometre prescribed for the class of vehicle as detailed in the Local Government Officers' Award where the member's vehicle is used.”*

DETAILS

Issues and options considered:

Following a review of all Federal Local Government Awards, the Local Government Officers' Award was replaced with the Local Government Award 2010. As the Local Government Award 2010 does not contain a table of mileage rates, Policy – Elected Members – Expenses requires to be amended to reflect a new reference point to calculate travel expenses for Elected Members.

It is recommended that Clause 7.3(c) of the Policy be amended to reflect that the mileage rates within the Public Sector Award are now used to calculate travel expenses. The proposed amendment is shown on Attachment 1 to this Report.

The mileage rates within the Public Sector Award, now being used for reimbursement of travel costs for Elected Members, are as follows:

Engine displacement (cubic centimeters)	Over 2600 cc	Over 1600 cc to 2600 cc	1600 cc and under
Metropolitan area (cents per kilometer)	89.5	64.5	53.2

Legislation/Strategic Plan/Policy Implications

Legislation Not applicable.

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: To lead and manage the City effectively.

Policy Policy – Elected Members – Allowances.

Risk Management considerations:

Not applicable.

Financial/Budget Implications:

Not applicable.

Regional Significance:

Not applicable.

Sustainability implications:

Not applicable.

Consultation:

Not applicable.

COMMENT

The Public Sector Award does not apply to local government, however the Department of Local Government has recommended that the mileage rate table included in the Public Sector Award is an appropriate reference point for the calculation of travel expenses for Elected Members.

VOTING REQUIREMENTS

Simple majority

Cr Gobbert left the Room at 1811 hrs and returned at 1813 hrs.

MOVED Cr Young, SECONDED Cr Chester that the Policy Committee RECOMMENDS that Council AMENDS Clause 7.3(c) of Policy – Elected Members – Allowances as outlined on Attachment 1 to this Report.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1policy100427.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Mr Garry Hunt, Chief Executive Officer
Item No/Subject	Item 2 – Review of Policy – Representation for Elected Members and Employees
Nature of interest	Interest that may affect impartiality
Extent of Interest	The policy may impact on the Chief Executive Officer

ITEM 2 REVIEW OF POLICY - REPRESENTATION FOR ELECTED MEMBERS AND EMPLOYEES

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 13562

ATTACHMENTS: Attachment 1 Draft Policy 8-7 Representation for Elected Members, the CEO and Employees
Attachment 2 Current Policy 8-7 Representation for Elected Members and Employees

PURPOSE/EXECUTIVE SUMMARY

To present the Policy Committee with an amended version of the City's Policy 8-7 *Legal Representation for Elected Members and Employees* for its consideration.

The purpose of the amendments is to distinguish the manner in which Elected Members, the Chief Executive Officer (CEO) and Employees are able to seek payment for legal representation costs under the policy.

BACKGROUND

Following an incident whereby a City Employee and the CEO were subject to a vexatious legal claim brought against them, it was considered necessary to review the policy for legal representation to ensure that Employees are sufficiently protected in the future should a similar incident occur.

DETAILS

The Draft Policy (provided at Attachment 1) seeks to create an *entitlement* for Employees to receive payments for legal representation costs arising from matters in relation to their day-to-day functions.

In the current policy, Elected Members, the CEO and Employees are subject to the same procedure for obtaining payment approval, that is, all applications for payments must be approved by Council and are subject to three major payment criteria:

- *The Legal Representation Costs must relate to a matter that arises from the performance, by the Elected Member or Employee, of his or her functions;*
- *The Legal Representation Costs must be in respect of Legal Proceedings that have been, or may be, commenced; and*

- *In performing his or her functions, to which the Legal Representation relates, the Elected Member or Employee must have acted in good faith and must not have acted unlawfully or in a way that constitutes improper conduct.*

It is not suggested that the payment criteria listed above be amended, however, the Draft Policy does recommend the following changes:

- All Employees (excluding the CEO) are exempt from obtaining Council approval to receive payments for legal representation costs.

This is based on the rationale that the CEO is responsible for the management of the day-to-day operations of the City under the Local Government Act 1995 and should therefore be responsible for approving Employee payment applications within a reasonable limit.

Applications for payment of legal representation costs by Employees must contain the same information as Elected Member and CEO applications, the only difference being that an Employee application does not have to be presented to Council unless it is required by the CEO.

- The CEO must obtain approval from Council in the same manner as Elected Members.

This is based on the rationale that the CEO is appointed by Council and is ultimately accountable to it.

- When multiple applications for a particular matter are submitted, an estimate must be obtained from the selected legal representative regarding the costs required to complete the legal action.

This was considered necessary to prevent an unreasonable number of applications being submitted to Council or the CEO in relation to the same matter. It also provides an estimate as to how many applications may be anticipated from an individual applicant.

Issues and options considered:

- Option 1: Recommend that Council adopts the Draft Policy provided at Attachment 1.
- Option 2: Consider the Draft Policy provided at Attachment 1 and recommend that Council requests additional amendments.
- Option 3: Recommend that Council does not adopt the Draft Policy provided at Attachment 1 and instead chooses to retain the Policy in its current form.

Link to Strategic Plan:

- Objective 1.3: To lead and manage the City effectively.
Strategy 1.3.1: The City develops and implements comprehensive and clear policies which are reviewed regularly.

Legislation – Statutory Provisions:

Not applicable.

Risk Management considerations:

Not applicable.

Financial/Budget Implications:

Policy 8-7 *Legal Representation for Elected Members and Employees* relates to City payments of legal representation costs for Elected Members, the CEO and Employees.

Policy implications:

This report suggests amendments to the City Policy 8-7 *Legal Representation for Elected Members and Employees*.

Regional Significance:

Not applicable.

Sustainability implications:

Not applicable.

Consultation:

Not applicable.

COMMENT

Not applicable.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Chester, SECONDED Cr Young that the Policy Committee RECOMMENDS that Council ADOPTS the Draft Policy 8-7 Legal Representation for Elected Members, the Chief Executive Officer and Employees in the format provided at Attachment 1 to this Report.

The Motion was

NOT PURSUED

MOVED Mayor Pickard, SECONDED Cr Diaz that the Policy Committee RECOMMENDS that Council DOES NOT amend Draft Policy 8-7 Legal Representation for Elected Members and Employees as shown on Attachment 1 to this Report.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2policy100427.pdf](#)

ITEM 3 REVIEW OF COUNCIL POLICY 1.2: PUBLIC PARTICIPATION

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 75521

ATTACHMENTS: Attachment 1 Option 1 - Draft Community Consultation and Engagement Policy
Attachment 2 Option 3 - Public Participation Policy 1.2

PURPOSE/ EXECUTIVE SUMMARY

To present information pertaining to a review of Policy 1-2 - Public Participation.

BACKGROUND

At the meeting of Council held on 15 December 2008, a request was received for a report to the Policy Committee on a review of the Public Participation Policy 1.2. The review included consideration of the Public Participation Strategy which was written to support the Policy in 2005 and later amended in 2006. The Strategy supported implementation of the Policy by providing guidance on:

- The identification of issues requiring public participation;
- The inclusion in the annual budget process of funding for public participation activities;
- Increasing staff awareness and skills in public participation techniques;
- How all sectors and groups within the community can have the opportunity to participate in the City's activities; and
- A community education program relating to public participation in the City's affairs.

A report was presented to the Policy Committee at its meeting of 9 September 2009 that took into account the practical experience acquired from designing and carrying out consultation processes, the current literature on community engagement and consultation and a desktop review of policy documents of other local governments that had been redrafted or written in the last 12 months.

On receiving the report, the Policy Committee requested a further report concerning a future Community Consultation and Engagement Policy. This report was presented to the Policy Committee at its meeting held on 23 February 2010, whereby it was resolved that the *Policy Committee RECOMMENDS that Council:*

1. *DELETES Council Policy 1.2 – Public Participation;*
2. *ADOPTS Council Policy - Community Consultation and Engagement forming Attachment 1 to this Report, subject to the inclusion of the following additional statement:*

“Sustainability

This Policy ensures that decisions by the Council are made with full knowledge, which may potentially support sustainable outcomes.

The Policy provides a clear statement of the Council's intention to make itself aware of community opinion in order to inform decision-making. The Policy seeks to ensure that all groups in the community have the opportunity to engage with the Council on matters that affect them, and will contribute to an improved quality of the decisions reached, and greater acceptance of the final Council decisions by members of the community."

The minutes of the Policy Committee meeting of 23 February 2010 were presented to the Council meeting of 16 March 2010 whereby it was resolved inter alia that the Council REFERS Council Policy 1.2 – Public Participation and proposed Council Policy - Community Consultation and Engagement back to the Administration to enable further engagement with the Elected Members.

DETAILS

It is proposed that the City's Public Participation Policy 1.2 and its supporting Strategy are replaced with a Community Consultation and Engagement Policy. The proposed Policy is divided into two parts. The first part identifies what the City will do when engaging with the community on matters associated with local governance and the second part identifies how the community will be actively encouraged to take up opportunities to participate. In this way, the proposed Policy incorporates aspects of the Public Participation Strategy that have been shown to be effective in practice and are most strongly supported by contemporary literature. The Strategy, which has previously been an internal document, will no longer be required given that the major elements have been incorporated into the proposed Community Consultation and Engagement Policy.

The following table concerns the first part of the proposed Policy and identifies statements that have been included in the document and the benefits of doing so.

Statement	Benefits
The purpose and scope of each consultation exercise is clear and unambiguous.	<ul style="list-style-type: none"> • Identifies issue/Sets agenda. • Identifies "out of scope" matters up front. • Provides for the articulation of a representative sample. • Explains how information will be sought from the public and what it will be used for. • Sets a standard for the information to be provided to the public.
Timeframes of any consultation undertaken, including the opening and closing dates, are stated.	
Non negotiable aspects of a consultation are stated.	
The target audience for a consultation exercise is stated.	
The extent to which the outcome of a consultation will influence a Council decision is identified.	
The consultation methods to be employed for each consultation exercise are stated.	
Accurate, adequate and unbiased information is provided for the public to give informed opinions.	
Adequate time and resources are provided for consultation processes to take place.	

Analysis of the feedback from a consultation process will be published on the City's website.	<ul style="list-style-type: none"> Public education/information. Could be linked to an opportunity for the public to evaluate the extent to which they were 'engaged.'
Where applicable, statutory legislative requirements for community consultation are satisfied.	<ul style="list-style-type: none"> Indicates base level requirements for consultation.
Circumstances where wide consultation is not possible: <ul style="list-style-type: none"> Emergencies – matters concerning public safety etc. Legal constraints. 	<ul style="list-style-type: none"> Identifies practical limitations of consultative processes.

The second part of the proposed Policy focuses on the continuing need for community education for participation and refers to the provision of opportunities for 'active citizenship' in the City of Joondalup.

Retention of community education as a component of a new Community Consultation and Engagement Policy reflects review findings that community interest and involvement in policies, plans and service delivery continues to be challenging. There is the risk that low rates of participation may serve to invalidate the outcomes of a consultative process from a community perspective and increase public distrust and disaffection. Effective community education on opportunities to become 'active citizens' will serve as a vehicle for building trust with the community at the same time as empowering them to get involved.

Practical implementation of both parts of the proposed Policy will be guided by operational protocols on:

- how representativeness is to be sought on specific issues;
- participant identification;
- what methods of community engagement could be used by the City;
- when (time of year/suitable dates and times) and where community engagement could take place; and lastly,
- how 'active citizenship' will be promoted through community education.

How representativeness will be sought

The proposed Policy identifies that a target audience will be identified for any consultation process and that this '*may involve random selection of participants.*' A protocol will outline how this may be done dependent on whether the consultation is to be exploratory and therefore 'open-ended' or whether it is to identify levels of community support for options that have already been identified.

Exploratory consultations are those in which the community is invited to contribute in ways that allow for the capture of their attitudes, values and beliefs on matters such as the development or review of a strategy, policy, plan or service. To encourage participation that encompasses the broader community, random selection of a representative sample of City residents are invited to become involved. Selection may be at the level of a geographic area or across the whole of the City. Opportunities to participate may also be advertised widely and through a range of communication channels. Exploratory consultations are those in which any individual or group with an interest in the matter may participate.

Consultation on identified options occurs when Council has already given 'in principle' support for a course of action as set out in a plan, policy, strategy or service but wishes to determine levels of community support before going further. In these circumstances, representation is a critical factor because the information sought must be aggregated to

provide a result, usually in the form of a percentage response, to identify preferred options. As previously, selection may be at the level of a geographic area or across the whole of the City but the sample selected must be representative of the population for the discrete geographic area or the whole of the City.

Participant Identification

This is dependent on whether a consultation is exploratory or concerns predetermined options. During exploratory consultations where matters are in the developmental stage, participants may remain anonymous (other than having provided basic demographic information). During consultations to identify levels of community support for a particular option, being able to identify participants is important for the purposes of validation.

It should be noted that it is the City's usual practice to request the names and addresses of those responding to surveys during formal consultation efforts, in order for the response to be valid. However, there may be circumstances where anonymity to a subject matter may be appropriate to elicit a suitable community response. In those circumstances the consultation will be tightly controlled to ensure legitimacy of responses.

Methods of Engagement

In general, exploratory matters may be addressed using on or off-line community forums, focus groups and even surveys (using only open-ended questions) as they provide opportunities for people to learn about the topic and to express their values, attitudes and beliefs on the matter.

In circumstances where community input is limited to deciding amongst the available options, on or off-line surveys using closed questions are the most appropriate method for determining levels of community support.

When and where for consultation?

At the last meeting of the Policy Committee it was felt that consultations ought not to be conducted over the Summer period (being after the final ordinary meeting of Council in December to the first ordinary meeting of Council February of the following year). Two exceptions should be noted:

- On some occasions consultation during the Summer may be entirely appropriate and justifiable and approval for any consultation to be held is to be determined by Council;
- Compliance with statutory requirements concerning advertising for planning or approvals matters may make it necessary to advertise consultations during the Summer period. Approval for any consultation is to be determined by the CEO.

Off or online?

Exploratory types of consultation using workshops, community forums or reference groups have traditionally been held at City venues and usually during the evening to cater for work commitments. Whilst events of this nature cannot be said to be representative of the interests of the community as a whole, they do provide opportunities for identifying issues, concerns and potential solutions on a broad range of matters

With the advent of social media, people can now become aware of and actively contribute to consultative processes via the internet. To date the City has used online surveys on a number of occasions and is currently researching capacity for exploratory types of online consultation such as moderated online forums or blogs.

Promotion of Active Citizenship

As noted in the previous report, community education for active citizenship would primarily be targeted toward 'new citizens' in the City and include:

- The obligations of citizenship
- The role of the City in local governance
- Why community participation in local governance is important
- The differences between consultation (option preference) and engagement (exploration of the issues)
- Typical opportunities to participate
- How opportunities to participate will be communicated and managed – on and offline
- How the community will be able to evaluate the City's performance in managing a participative process

Issues and options considered:

The Policy Committee may:

Option One: Approve the draft Community Consultation and Engagement Policy for referral to Council for consideration as a replacement for Council Policy 1.2 Public Participation. The draft policy (as amended by the Policy Committee at its February 2010 meeting) is shown as Attachment 1 to this report.

Option Two: Amend the draft Community Consultation and Engagement Policy prior to referral to Council

Option Three: Retain Council Policy 1.2 Public Participation (and the present version of the Public Participation Strategy) with an amendment to reflect the fact that a Public Participation Strategy has been in place since 2005. The amended Policy is shown as Attachment 2 to this report.

Option One is recommended as it contains clear statements on what the City will do when seeking to engage with the community and incorporates the most salient aspects of the current Public Participation Strategy.

Legislation/Strategic Plan/Policy Implications

Legislation Section 1.3 (2) (b) and (c) of the Local Government Act (1995). Refers to greater community participation in the decisions and affairs of local governments; greater accountability of local governments to their communities

Strategic Plan

Key Focus Area: Leadership and Governance
Objective: To engage proactively with the community

Policy 1.2 Public Participation

Risk Management considerations:

There is a risk associated with Council making decisions on the conduct of community consultation and engagement processes without a clear idea of developments in best practice on the national and international level.

Financial/Budget Implications:

There are financial implications associated with community consultation and engagement and these are considered during the annual budget process.

Regional Significance:

Not applicable

Sustainability implications:

Sustainable development is dependent on the practices associated with 'good governance' such as openness and transparency and the active involvement of citizens in decision-making. The literature on sustainable development indicates that by involving citizens in decisions likely to have an impact on them, then providing opportunities for information (learning) and deliberation, the outcome of a participative process is more likely to be accepted and also sustainable in the long term.

The City is faced with making decisions that will affect most citizens in one way or another, whether it be financially, environmentally or socially, at the level of a single street or across all 22 suburbs which make up the City of Joondalup. To ensure that those decisions are made with a '*clear understanding of the wishes of its community*' (Strategic Plan 2008 – 2011) and therefore sustainable, greater efforts are necessary to increase levels of community consultation and engagement through targeting and direct invitations to those most affected by a matter and at the same time, providing community education on 'active citizenship' in the interests of acting for 'the public good.'

Consultation:

Not applicable.

COMMENT

Community consultation and engagement processes are evolving exponentially as tools of governance on the national and international stage. In the process of carrying out the review of the Public Participation Policy 1.2 and Public Participation Strategy it was found that many local governments had revised their policies and practices within the last 12 months.

The proposed draft Community Consultation and Engagement Policy has been informed by professional and academic literature, the practice of other local governments and the practical experience gained from implementing the current Policy and Strategy.

It should be noted that with all significant consultation efforts the Council will be informed of the community engagement strategy proposed to be undertaken, including:

- Purpose of the consultation.
- Who will be consulted?
- How will the consultation be undertaken?
- Communication methods to be used.
- Documentation required for the consultation.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION: That the Policy Committee RECOMMENDS that Council:

- 1 DELETES Council Policy 1.2 – Public Participation forming Attachment 2 to this Report;
- 2 ADOPTS Council Policy - Community Consultation and Engagement forming Attachment 1 to this Report.

MOVED Mayor Pickard, SECONDED Cr Chester that debate on the Item pertaining to Council Policy – Community Consultation be adjourned until the Policy Committee meeting to be held on 24 August 2010.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3policy100427.pdf](#)

ITEM 4 PROPOSAL TO BAN BURNING ON PRIVATE PROPERTIES — UPDATE

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 29061

ATTACHMENTS: Attachment 1 Burning Apparatus/Processes

PURPOSE / EXECUTIVE SUMMARY

This report provides the Policy Committee with an update on the status of the proposal to ban burning on private properties.

BACKGROUND

At the Policy Committee meeting on 16 September 2008, a report was requested to be presented to the next meeting of the Policy Committee in relation to backyard fires. A report was presented to the Committee on 15 December 2008 from which the Policy Committee elected to recommend Council adopt Option 2, namely, “agree to publish a notice in the Government Gazette and in a local newspaper stating that “backyard burning and the use of incinerators are prohibited within the City of Joondalup at all times” and amend the City’s current Policy 6-5 — Burning on Private Property to state that the City will not issue permits.” This recommendation went to Council where it is stated that “Mayor Pickard advised that the report in relation to backyard burning had been withdrawn and [would] be resubmitted at a

later stage.” A report was then sent to the Briefing Session of 10 February 2009, following which, the matter was referred back to the Policy Committee.

A second report went to the Policy Committee on 4 March 2009. In this report, the City presented its position *that “instituting a blanket ban for burning on private property may be of some merit to residents from both a safety and public health perspective. However, the ban should be for the purposes of restricting potential fire hazards and smoke created from burning green waste and rubbish only.”* A motion was carried to recommend *“a paper on the “Burning Ban on Private Properties” be advertised for public comment and a report be submitted back to the Policy Committee for consideration.”* This was endorsed by Council at its meeting on 17 March 2009.

In addition, it should also be noted that an 18-signature petition to *“permanently ban the practice of burning of garden refuse or other waste in residential backyards”* was tabled at the Council Meeting on 15 December 2009.

DETAILS

The City has several instruments enabling it to regulate burning on private property to a certain degree. These include:

1. Bush Fires Act 1954 — which provides the City, inter alia, with the following powers:
 - ability to make local laws that require owners and occupiers of land to have sufficient firebreaks in place;
 - ability to appoint Bush Fire Control Officers for the purposes of ensuring that effective firebreaks are in place during the bush fire season;
 - ability to issue permits that allow bush to be burnt during restricted burning times;
 - ability to prohibit the burning of garden refuse or rubbish in an incinerator or on the ground on private premises by publishing a notice in the *Government Gazette*; and
 - ability to issue permits for lighting fires on private premises for cooking or camping.
2. Health Act 1911 — which provides the City with the following powers:
 - ability to make local laws for the purposes of preventing nuisances.
3. Bushfire Prevention and Control Local Law 1998 — which allows:
 - authorised City Officers to require occupiers of land within the City to establish and maintain firebreaks following the commencement of the firebreak period.
4. Policy 6-5 — Burning on Private Property — which states:
 - Residential Garden Refuse and other Rubbish:
 - Garden refuse and rubbish intended for burning shall be placed on the ground in a heap no more than one metre across and to a height of no more than 1 metre. Only one heap may be burnt at any one time.
 - Between 1 October and 31 May annually, provided that the day of burning is not designated as an extreme or very high fire danger rating, garden refuse may be burned between 6.00pm and 11.00pm only.

- Cleared Land Development Sites:
 - The burning of cleared vegetation on subdivisional land development sites shall be prohibited at all times.

The majority of the regulatory powers above only apply during prohibited and restricted burning times, which are as follows:

- Prohibited burning times are from 1 December to 31 March
- Restricted burning times are from 1 October to 30 November and from 1 April to 31 May.

This means that the months of June, July, August and September are currently not subject to burning restrictions under the *Bush Fires Act 1954* or the City's *Bushfire Prevention and Control Local Law 1998* and are therefore mostly unregulated by the City. The *Health Act 1911* enables smoke from burning to be dealt with under nuisance provisions; however, this only applies to the burning of rubbish and does not include garden refuse. Issues also surround prosecuting nuisance offences, which may reduce the effectiveness of such an approach. For an effective blanket ban to be achieved, the months currently not subject to regulation will need to be incorporated into the restricted burning period.

Issues and Options Considered:

In previous reports, the City has proposed various options of how to implement a blanket ban on burning on private property. These options have been reproduced below (see Attachment 1 for the different types of burning apparatus/processes mentioned in this section).

1. Following a resolution of Council, publish a notice in the *Government Gazette* and in a local newspaper stating that “*burning on private property and the use of incinerators are prohibited within the City of Joondalup at all times without a permit*” and amend the City's *Policy 6-5 — Burning on Private Property* to reflect this.

Effect: This option would restrict people from burning any materials using the following apparatus/processes:

- 44-gallon drum (possibly)
- brazier
- chiminea (possibly)
- fire pit
- hangi
- household incinerator
- Webber-type BBQ (possibly)
- wood-fired BBQ (possibly)
- directly on the ground

Burning using these apparatus/processes would be banned at any time during the year without obtaining a permit from the City. The City could then develop criteria for determining the circumstances in which a permit would be issued and amend the City's *Policy 6-5 — Burning on Private Property* to reflect this.

2. Following a resolution of Council, publish a notice in the *Government Gazette* and in a local newspaper stating that “*burning on private property and the use of incinerators are prohibited within the City of Joondalup at all times*” and amend the City's current *Policy 6-5 — Burning on Private Property* to state that the City will not issue permits.

Effect: This option would restrict people from burning any materials using the following apparatus/processes:

- 44-gallon drum (possibly)
- brazier
- chiminea (possibly)
- fire pit
- hangi
- household incinerator
- Webber-type BBQ (possibly)
- wood-fired BBQ (possibly)
- directly on the ground

Burning using these apparatus/processes would be banned at any time during the year. The City's *Policy 6-5 — Burning on Private Property* would then make it clear to residents that burning on private property and the use of incinerators are banned, and permits are not be available.

3. Following a resolution of Council, publish a notice in the *Government Gazette* and in a local newspaper stating that “*burning on private property and the use of incinerators are prohibited within the City of Joondalup at all times, excluding enclosed devices used for the purposes of cooking or heating*” and amend the City's current *Policy 6-5 — Burning on Private Property* to state that the City will not issue permits.

Effect: This option would effectively restrict people from burning any materials in:

- 44-gallon drum (possibly)
- brazier
- fire pit
- hangi
- household incinerator
- (open) wood-fired BBQ (possibly)
- directly on the ground

By excluding “*enclosed devices used for the purposes of cooking or heating*”, the City will ensure that chimineas, hangis, potbelly stoves, Webber-type BBQs, wood-fired BBQs (if enclosed), and wood-fired pizza ovens, are not captured by a blanket ban. The City's *Policy 6-5 — Burning on Private Property* would then make it clear to residents that burning on private property using any other type of apparatus/process is banned at all times, and permits are not available.

4. Introduce a local law under the general powers provisions of the *Local Government Act 1995*, to ban specific materials from being burnt and to ban specific processes for burning on private property, as determined by Elected Members.

Effect: This option would enable Council to specify the materials and burning processes to be banned, however, legal advice would need to be obtained to ensure that no inconsistencies exist between provisions in the local law and other legislation. In addition, it should be noted that the process for introducing a local law is often long and expensive and is best avoided if other effective options are also available.

5. Amend the City's *Health Local Laws 1999* to prohibit the burning of rubbish on the ground or in an incinerator.

Effect: This option has been pursued by the City of Rockingham; however, it has not proved particularly effective as the prohibition only captures a limited number of materials and does not extend to green waste. Moreover, the new *Health Bill* has omitted the nuisance provisions and as such, the City's *Health Local Law 1999* will require a major review in the next 12 to 18 months and may not be able to capture offences relating to smoke emissions.

6. Maintain current situation.

Effect: This option would enable City Officers to issue permits for residents to burn garden refuse, rubbish or bush on the ground or in an incinerator during prohibited or restricted burning periods in accordance with the City's *Policy 6-5 — Burning on Private Property* and the *Bush Fires Act 1954*.

Legislation/Strategic Plan/Policy Implications:

Legislation:

- *Local Government Act 1995* (WA)
- *Bush Fires Act 1954* (WA)
- *Health Act 1911* (WA)
- *Bush Fire Prevention and Control Local Law 1998* (City of Joondalup)
- *Health Local Law 1999* (City of Joondalup)

Strategic Plan: Not applicable

Policy: Following a public consultation, should options 1, 2, 3 or 4 be adopted, the City's *Policy 6-5 — Burning on Private Property* will require amending to reflect the elements of the option pursued.

Risk Management Considerations:

As noted in previous reports, there is a risk that instituting a complete fire ban may seem unreasonable to residents who are undertaking all necessary precautions to ensure that fires on private property are contained. Limiting reasonable acts within a controlled environment on private land may appear to some residents as an unwarranted overregulation on behalf of the City.

In addition, instigating a blanket ban on burning on private properties may have far-reaching implications for many residents, particularly those who possess relatively commonplace cooking and heating apparatus (e.g.: chiminea, wood-fired pizza oven, etc.).

Financial/Budget Implications:

Not applicable

Regional Significance:

Not applicable

Sustainability Implications:

Not applicable

Consultation:

The risks associated with instigating a blanket ban on burning on private properties has been identified in the 'Risk Management Considerations' above. Therefore, it is the City's intention to develop a discussion paper to be released for public comment with the results submitted to the Policy Committee at their next meeting on 24 August 2010. This is in accordance with the Council decision from its meeting on 17 March 2009, namely that Council:

“AGREES that a paper on the “Burning Ban on Private Properties” be advertised for public comment for a period of thirty (30) days and a report be submitted to the Policy Committee for consideration.”

The purpose of this consultation will be to determine the level of community/stakeholder support for the City to instigate a ban on burning on private properties. Additionally, if a ban were to be adopted, which burning apparatus/processes do the community believe should be banned.

It is intended that the discussion paper, once developed, will be sent directly to relevant stakeholders for comment, specifically:

- Fire and Emergency Services Authority of Western Australia (FESA)
- Wanneroo/Joondalup State Emergency Service Unit (SES)
- Wanneroo Volunteer Fire Support Brigade
- Local Emergency Management Committee
- Department of Environment and Conservation, Air Quality Branch
- Asthma Foundation of Western Australia
- City of Wanneroo
- Petitioners noted in the petition tabled at the Council Meeting on 15 December 2009

The discussion paper will also be made available electronically to all members of the community via the City's website and in hard-copy form upon request. It is intended that the consultation will be advertised through the *Joondalup Times* and the *Joondalup Weekender* and also on the homepage of the City's website.

This discussion paper will be circulated to Elected Members for comment, prior to being released for public consultation.

COMMENT

It is anticipated the results of the consultation will assist the Policy Committee in making its recommendation to Council.

VOTING REQUIREMENTS

Simple majority

Cr Gobbert left the Room at 1831 hrs and returned at 1833 hrs.

OFFICER'S RECOMMENDATION: That the Policy Committee NOTES the status report dated 27 April 2010, in relation to the proposal to Ban Burning on Private Properties.

MOVED Mayor Pickard, SECONDED Cr Hollywood that the Policy Committee RECOMMENDS that Council:

1 publishes a notice in the local newspaper stating that:

“burning of residential garden refuse and rubbish on private property and the use of incinerators are prohibited within the City of Joondalup at all times, excluding devices used for the purposes of cooking or heating.”;

2 AMENDS Policy 6-5 – Burning on Private Property to reflect Part 1 above and that the City will not issue permits.

The Motion was Put and

CARRIED (6/0)

In favour of the Motion: Crs Hollywood, Chester, Diaz, Gobbert, Cr Young and Mayor Pickard

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4policy100427.pdf](#)

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

Street Lighting

Cr Young requested information in relation to the replacement and cost of street lighting shades and the process to be undertaken by residents in liaising with Western Power.

The Chief Executive Officer advised that details would be placed on the Desk of the CEO.

CLOSURE

There being no further business, the Presiding Person declared the Meeting closed at 1855 hrs, the following Committee Members being present at that time:

Cr Kerry Hollywood
Cr John Chester
Mayor Troy Pickard
Cr Trona Young
Cr Liam Gobbert
Cr Fiona Diaz