

minutes

Special Meeting of Council

MEETING HELD ON **MONDAY, 9 NOVEMBER 2015**

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CITY OF JOONDALUP**SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY, 9 NOVEMBER 2015.****DECLARATION OF OPENING**

The Mayor declared the meeting open at 8.21pm.

ANNOUNCEMENT OF VISITORS**Mayor:**

TROY PICKARD

Councillors:

CR KERRY HOLLYWOOD	North Ward
CR TOM McLEAN, JP	North Ward – <i>Deputy Mayor</i>
CR PHILIPPA TAYLOR	North Central Ward
CR NIGE JONES	North Central Ward
CR RUSSELL POLIWKA	Central Ward
CR CHRISTINE HAMILTON-PRIME	South-West Ward
CR MIKE NORMAN	South-West Ward
CR JOHN CHESTER	South-East Ward
CR JOHN LOGAN	South-East Ward
CR RUSS FISHWICK, JP	South Ward
CR SOPHIE DWYER	South Ward

Officers:

MR GARRY HUNT	Chief Executive Officer
MR MIKE TIDY	Director Corporate Services
MR JAMIE PARRY	Director Governance and Strategy
MS DALE PAGE	Director Planning and Community Development
MR NICO CLAASSEN	Director Infrastructure Services
MR BRAD SILLENCE	Manager Governance
MR JOHN BYRNE	Governance Coordinator
MR DANIEL DAVINI	Media Advisor
MRS LESLEY TAYLOR	Governance Officer

There were two members of the public and one member of the press in attendance.

DECLARATIONS OF INTEREST

Disclosure of Financial Interest/Proximity Interest

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	Cr John Logan.
Item No./Subject	JSC04-11/15 – Local Government and Public Property Amendment Local Law 2015.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Logan is an associate member of St Vincent de Paul Society which has a relationship with the charities concerned with this item.

PUBLIC QUESTION TIME

The following questions were submitted prior to the Special Council meeting on 9 November 2015:

Mr J Knowles, Good Samaritan Industries, Canning Vale:

Re: JSC04-11/15 – Local Government and Public Property Amendment Local Law 2015 – Adoption.

Q1 Noting that CJ104-06/15 – Use of Public Land for the Placement of Charity Clothing Bin states that charities were not consulted in its formulation, is Council prepared to consult with Good Samaritan Industries to resolve the matter prior to this evening's deliberations?

A1 The report CJ104-06/15 does not refer to the amendment to the Local Government and Public Property Local Law 2015. The local law amendment was initiated by Council at its meeting held on 15 September 2015 (Item C58-09/15 refers). There is a statutory process for the local law amendment requiring advertising for a six week period and inviting submissions. This process has been followed.

Q2 Is Council prepared to reconsider its opposition to well-managed charity bins on Council land?

A2 This is a matter for Council to determine.

- Q3 *Regardless of the outcomes of the Special Council meeting and State Administrative Tribunal deliberations, will Council work with Good Samaritan Industries in the future to develop alternatives to charity bins on Council land?*
- A3 This is a matter for Council to determine.
- Q4 *Good Samaritan Industries charity bins on City property collected 246 tonnes in two years or in the above terms, the equivalent of 169 charity collection day drop-off sites per annum. Is Council considering this the level of commitment to charities as an alternative to charity bins on Council land?*
- A4 The Charity Collection Day held on 19 September 2015 was only the first held and is the first of a number of initiatives under consideration.
- Q5 *Can Council provide the date and time the initial decision was made to have this matter considered at a Special Council meeting on 9 November 2015?*
- A5 The Special Council meeting was called by the Mayor on Friday 6 November 2015.

Mr J Tuson, Manager Spine and Limb Foundation Charitable Donation Bins, Edgewater:

- Re: *JSC04-11/15 – Local Government and Public Property Amendment Local Law 2015 – Adoption.*
- Q1 *The City of Joondalup Charity Collection Day held on 19 September 2015 at Craigie Leisure Centre and the Council car park reportedly collected 2.9 tonnes of clothing and textiles for two charities involved. Can the City advise the total cost to ratepayers for the planning and execution of this event?*
- A1 This question will be taken on notice.
- Q2 *For the same event, can the City advise how many City employees were required to be working on the day to manage traffic flow and other aspects of the event?*
- A2 This question will be taken on notice.
- Q3 *In its quest for alternative, more contemporary methods of donation collection, is the City planning for an appropriate level of commitment to provide charities with the opportunity to replace donations lost through the banning of bins from public land?*
- A3 The City is working with charities looking at number of alternatives. The City sponsored Charity Collection Day held on 19 September 2015 was the first of those.
- Q4 *The City has stated that there is an administrative cost incurred in dealing with complaints about charity bins on public land. Can the City advise the total of this administrative cost for the past 12 months?*
- A4 This question will be taken on notice.
- Q5 *The matter of charitable clothing collection bins on public land within the City of Joondalup is currently under consideration by the State Administrative Tribunal with mediation between the City and two charities set for 14 December 2015. Given this process that is underway, why did Council deem it necessary to consider this amendment to the local law at a Special Council meeting called at short notice?*

A5 The local law amendment process was initiated at the Ordinary Council Meeting on 15 September 2015. It has been out for public consultation for six weeks. It is appropriate that the Council consider the outcomes of that consultation at this time.

PUBLIC STATEMENT TIME

Mr J Tuson, Manager Spine and Limb Foundation Charitable Donation Bins, Edgewater:

Re: JSC04-11/15 - Local Government and Public Property Amendment Local Law 2015 – Adoption.

Mr Tuson spoke in support of the retention of charity bins located on City land, stating that the proposed alternative methods of donation collection included in the report would create a shortfall in donation volumes and would take the Spine and Limb Foundation years to transition to a charity bin free model. Mr Tuson advised that the Spine and Limb Foundation is committed to working with the City to resolve the City's concerns in relation to the anti-social behaviour associated with charity bins and urged Council to vote against the proposed local law.

Mr J Knowles, Chief Executive Officer Good Samaritan Industries, Canningvale:

Re: JSC04-11/15 - Local Government and Public Property Amendment Local Law 2015 – Adoption.

Mr Knowles spoke in support of the retention of charity bins located on City land, stating the public good that comes from charity donation bins far outweighs the negative. Mr Knowles advised that Good Samaritan Industries assisted 1,000 people with disabilities last year and hoped to double their reach within the next five years. Mr Knowles urged Council to vote against the proposed local law.

APOLOGIES AND LEAVE OF ABSENCE

Apology

Cr Liam Gobbert.

Leave of Absence previously approved

Cr Liam Gobbert	22 November to 23 November 2015 inclusive;
Cr Mike Norman	7 December to 11 December 2015 inclusive;
Cr Liam Gobbert	10 December to 15 December 2015 inclusive;
Cr John Chester	30 November 2015 to 8 December 2015 inclusive;
Cr Nige Jones	14 to 18 December 2015 inclusive;
Cr Mike Norman	21 February to 5 March 2016 inclusive.

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

Nil.

REPORT**Disclosure of interest affecting impartiality**

Name/Position	Cr John Logan.
Item No./Subject	JSC04-11/15 – Local Government and Public Property Amendment Local Law 2015.
Nature of interest	Interest that may affect impartiality.
Extent of Interest	Cr Logan is an associate member of the St Vincent de Paul Society which has a relationship with the charities concerned with this item.

JSC04-11/15 LOCAL GOVERNMENT AND PUBLIC PROPERTY AMENDMENT LOCAL LAW 2015 - ADOPTION

WARD	All
RESPONSIBLE DIRECTOR	Mr Mike Tidy Corporate Services
FILE NUMBER	22513, 101515
ATTACHMENTS	Attachment 1 <i>City of Joondalup Local Government and Public Property Amendment Local Law 2015</i> Attachment 2 Summary of submissions
AUTHORITY / DISCRETION	Legislative - includes the adoption of local laws, planning schemes and policies.

PURPOSE

For Council to note the submissions received following public advertising of the proposed *City of Joondalup Local Government and Public Property Amendment Local Law 2015* and to make the local law.

EXECUTIVE SUMMARY

At its meeting held on 9 December 2014 (CJ233-12/14 refers), Council adopted the *City of Joondalup Local Government and Public Property Local Law 2014* (the local law) and this has been in operation since 28 January 2015. The local law provides for the regulation, control and management of activities and facilities on local government and public property within the district.

The City has been dealing with the issue of the management of charity clothing collection bins on City of Joondalup land and public property that have included the dumping of rubbish, vandalism and graffiti issues. In response Council resolved at its meeting held on 23 June 2015 (CJ104-06/15 refers) that permits will no longer be issued for charity clothing bins under Part 3 of the local law. While the resolution sets out the position of Council it does not prevent an application under the local law for a permit to place a charity clothing collection bin on City or public property.

At its meeting held on 15 September 2015 (C58-09/15 refers) Council resolved to make the *City of Joondalup Local Government and Public Property Amendment Local Law 2015* which seeks to ensure the local law reflects the position of Council by allowing the Council to determine that the placement of charity clothing collection bins on City and public property be not permitted.

In accordance with section 3.13(3) of the *Local Government Act 1995* the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government.

At the close of the public consultation period the City had received three submissions, being from the Department of Local Government and Communities (DLGC), Spine and Limb Foundation and Good Samaritan Industries.

It is therefore recommended that Council:

- 1 *NOTES the submissions received from the Department of Local Government and Communities, Spine and Limb Foundation and Good Samaritan Industries at the close of the public consultation period for the proposed City of Joondalup Local Government and Public Property Amendment Local Law 2015, as detailed in Attachment 2 to Report JSC04-11/15;*
- 2 *BY AN ABSOLUTE MAJORITY MAKES the City of Joondalup Local Government and Public Property Amendment Local Law 2015 as detailed in Attachment 1 to Report JSC04-11/15 and AUTHORIZES the Common Seal to be affixed;*
- 3 *NOTES the progression of the remaining actions to finalise the local law adoption process as detailed in sections 3.12 and 3.15 of the Local Government Act 1995.*

BACKGROUND

At its meeting held on 9 December 2014 (CJ233-12/14 refers), Council adopted the *City of Joondalup Local Government and Public Property Local Law 2014* (the local law) and this has been in operation since 28 January 2015. The local law provides for the regulation, control and management of activities and facilities on local government and public property within the district.

The City has been dealing with the issue of the management of charity clothing collection bins placed on City of Joondalup land and public property under the local law. The issues have included the dumping of rubbish, vandalism and graffiti. In response to these issues Council resolved at its meeting held on 23 June 2015 (CJ104-06/15 refers) that permits will no longer be issued for charity clothing bins under Part 3 of the local law.

While the resolution sets out the position of Council it does not prevent an application for a permit under the local law to place a charity clothing collection bin on City or public property. The City is required to consider any permit application and if declined the applicant has a right of objection and review. To prohibit this activity completely requires an amendment to the *City of Joondalup Local Government and Public Property Local Law 2014*. The proposed amendment will result in collection bins being included in clause 2.8 of the local law which then establishes this activity as one that the Council may then determine is prohibited.

At its meeting on 15 September 2015 (C58-09/15 refers) Council resolved to commence the local law making process for the proposed *City of Joondalup Local Government and Public Property Amendment Local Law 2015*, to give effect to Council's position, for the purposes of public advertising.

The **purpose** of the Joondalup Local Government and Public Property Amendment Local Law 2015 is to amend certain provisions within the City of Joondalup Local Government and Public Property Local Law 2014.

The **effect** of the *Joondalup Local Government and Public Property Amendment Local Law 2015* is to enable the local government to make a determination prohibiting the placing of collection bins on local government property throughout the district.

DETAILS

The proposed *City of Joondalup Local Government and Public Property Amendment Local Law 2015* (Attachment 1 refers) was advertised statewide in *The West Australian* on 19 September 2015 and in *The Joondalup Weekender* on 24 September 2015, seeking public comments. Local public notices were also displayed on the City's website and at each of the City's public libraries and customer service centres for six weeks during the period 16 September 2015 to 2 November 2015.

At the close of the public consultation period the City had received three submissions, being from the Department of Local Government and Communities (DLGC), Spine and Limb Foundation and Good Samaritan Industries. A summary of the submissions and the City's response is provided as Attachment 2. Where changes have been supported they have been included in the local law submitted to Council for adoption (Attachment 1 refers).

Issues and options considered

Council can either:

- adopt the proposed local law
- adopt the proposed local law with modifications, subject to the modifications not being significantly different to what was advertised
or
- not adopt the proposed local law.

It is recommended the proposed local law be adopted with modifications, in response to the submission from the DLGC and as outlined in Attachment 2.

Legislation / Strategic Community Plan / policy implications

Legislation	<i>Local Government Act 1995. Local Government (Functions and General) Regulations 1996. Local Government and Public Property Local Law 2014.</i>
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Strategic Community Plan

Key theme	Governance and Leadership.
Objective	Corporate capacity.
Strategic initiative	Not applicable.
Policy	Not applicable.

Risk management considerations

Should the City not follow the local law creation process as detailed in the Act, the local law may be recommended for disallowance by the Joint Standing Committee on Delegated Legislation (JSCDL).

Financial / budget implications

The cost associated with the local law making process is approximately \$2,500, being public advertising costs and costs to publish the local law in the *Government Gazette*. Funds are available in the *2015-16 Budget* for statutory advertising.

All amounts quoted in this report are exclusive of GST.

Regional significance

Not applicable.

Sustainability implications

Not applicable.

Consultation

The development of local laws requires statutory advertising of the proposal and consultation with the public throughout the local law-making process. This has been undertaken and included:

- giving statewide public notice advertising the proposed local law and inviting submissions to be made within no less than six weeks from the date of advertising, including:
 - advertising in *The West Australian* newspaper
 - advertising in the Joondalup Weekender newspaper
 - displaying public notices at the City of Joondalup Administration Centre, public libraries and customer service centres
 - advertising on the City's website

- providing a copy of the notice and a copy of the proposed local law to the Minister for Local Government.

COMMENT

The proposed *City of Joondalup Local Government and Public Property Amendment Local Law 2015* was developed in response to issues with the management of charity clothing collection bins on City of Joondalup land and public property that have included the dumping of rubbish, vandalism and graffiti issues.

The *City of Joondalup Local Government and Public Property Amendment Local Law 2015* will ensure the local law reflects the position of Council by allowing the Council to determine that the placement of charity clothing collection bins on City land and public property is an activity that is prohibited.

The proposed *City of Joondalup Local Government and Public Property Amendment Local Law 2015* was subsequently advertised and minor amendments made, taking into account comments submitted by the DLGC.

The *City of Joondalup Local Government and Public Property Amendment Local Law 2015* awaits adoption by Council.

VOTING REQUIREMENTS

Absolute Majority.

MOVED Mayor Pickard, SECONDED Cr Hollywood that Council:

- 1 NOTES the submission received from the Department of Local Government and Communities, Spine and Limb Foundation and Good Samaritan Industries at the close of the public consultation period for the proposed *City of Joondalup Local Government and Public Property Amendment Local Law 2015*, as detailed in Attachment 2 to Report JSC04-11/15;**
- 2 BY AN ABSOLUTE MAJORITY MAKES the *City of Joondalup Local Government and Public Property Amendment Local Law 2015* as detailed in Attachment 1 to Report JSC04-11/15 and AUTHORISES the Common Seal to be affixed;**
- 3 NOTES the progression of the remaining actions to finalise the local law adoption process as detailed in sections 3.12 and 3.15 of the *Local Government Act 1995*.**

C67-11/15 EXTENSION OF TIME TO SPEAK - [02154]

MOVED Cr McLean, SECONDED Cr Taylor that in accordance with Clause 7.9 of the *City of Joondalup Meeting Procedures Local Law 2013* Mayor Pickard be granted an extension of five minutes to speak.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Chester, Dwyer, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, McLean, Norman, Poliwka and Taylor.

It was requested that each Part of the Motion be voted upon separately. Mayor Pickard advised that he would put Part 1 individually, followed by Parts 2 and 3 collectively.

MOVED Mayor Pickard, SECONDED Cr Hollywood that Council:

- 1 NOTES the submission received from the Department of Local Government and Communities, Spine and Limb Foundation and Good Samaritan Industries at the close of the public consultation period for the proposed *City of Joondalup Local Government and Public Property Amendment Local Law 2015*, as detailed in Attachment 2 to Report JSC04-11/15;**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Chester, Dwyer, Fishwick, Hamilton-Prime, Hollywood, Jones, Logan, McLean, Norman, Poliwka and Taylor.

MOVED Mayor Pickard, SECONDED Cr Hollywood that Council:

- 2 BY AN ABSOLUTE MAJORITY MAKES the *City of Joondalup Local Government and Public Property Amendment Local Law 2015* as detailed in Attachment 1 to Report JSC04-11/15 and AUTHORISES the Common Seal to be affixed;**
- 3 NOTES the progression of the remaining actions to finalise the local law adoption process as detailed in sections 3.12 and 3.15 of the *Local Government Act 1995*.**

The Motion was Put and

CARRIED (9/3)

In favour of the Motion: Mayor Pickard, Crs Dwyer, Fishwick, Hamilton-Prime, Hollywood, Jones, McLean, Norman and Taylor.

Against the Motion: Crs Chester, Logan and Poliwka.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1agn091115.pdf](#)

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 8.58pm the following Elected Members being present at that time:

MAYOR TROY PICKARD
CR KERRY HOLLYWOOD
CR TOM MCLEAN, JP
CR PHILIPPA TAYLOR
CR NIGE JONES
CR RUSSELL POLIWKA
CR CHRISTINE HAMILTON-PRIME
CR MIKE NORMAN
CR JOHN CHESTER
CR JOHN LOGAN
CR RUSS FISHWICK, JP
CR SOPHIE DWYER