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Special Council Meeting

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**Minutes of the Special Meeting of the City of South Perth Council
held for the Purpose of Discussing:**

- Revoking Item 11.2 of March Council 2007 Minutes; and
- Recommendations in the Department of Local Government Report of the Inquiry into the City of South Perth 2006

**in the Council Chamber, Sandgate Street, South Perth
Wednesday 6 June 2007 commencing at 7.00pm**

1. DECLARATION OF OPENING

The Mayor opened the meeting at 7.00pm and welcomed everyone in attendance.

2. DISCLAIMER

The Mayor read aloud the City's Disclaimer.

3. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

Present

Mayor J Collins, JP (Chairman)

Councillors:

J Best	Civic Ward
G W Gleeson	Civic Ward
B W Hearne	Como Beach Ward
L M Macpherson	Como Beach Ward
L J Jamieson	Manning Ward
L P Ozsdolay	Manning Ward
C A Cala	McDougall Ward
R Wells, JP	McDougall Ward
R B Maddaford	Mill Point Ward
D S Smith	Mill Point Ward
S Doherty	Moresby Ward
K R Trent, RFD	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer
Mr G Flood	Director Infrastructure Services
Mr M Kent	Director Financial and Information Services
Mr S McLaughlin	Legal and Governance Officer
Ms R Mulcahy	City Communications Officer
Mrs K Russell	Minute Secretary

Gallery

Approximately 15 members of the public and 1 member of the press

4 DECLARATIONS OF INTEREST

The Mayor reported that Declarations of Interest had been received in relation to Agenda Item 6.1.

He then read aloud the following declaration received from: Crs Cala, Macpherson, Maddaford, Ozsdolay, Trent, Wells and Mayor Collins:

“I wish to declare an interest in Agenda Item 6.1 contained on the Agenda of the Special Council Meeting scheduled for 6 June 2007, as follows:

Following the Council decision on 27 March 2007 at item 11.2 to adopt a resolution to allow the payment of legal fees paid by the Council of the City of South Perth, advice has been received that the resolution can be interpreted to apply to any Councillor whether or not adverse findings are made against that Councillor in the Department of Local Government Report and whether or not there was an intention to claim legal fees by that Councillor. This was not my understanding of the intent of the motion at the time of considering it. On the basis of this advice, I declare that I have a financial interest in Item 6.1 as the motion purports to rescind the March 2007 resolution, and as such I will not participate in the debate unless permitted to do so by the Minister.”

The Mayor read aloud the following Declaration of Interest received from Cr Smith in relation to Agenda Item 6.1.

“I wish to declare a Financial interest in Item 6.1 “Consideration of Revoking Item 11.2 March Council Meeting re Department of Local Government Inquiry - Legal Fees” on the Agenda for the Special Council meeting on 6 June 2007. I have sought legal advice and in view of this I will leave the Chamber and not participate in the discussion on this item.”

The Mayor read aloud the following Declaration of Interest received from Crs Doherty and Hearne in relation to Agenda Item 6.1.

“I wish to provide a statement in relation Agenda Item 11.1 contained on the April Agenda as follows:

1. *Following the Council decision on March 27 March 2007 at Item 11.2 to adopt a resolution (“the original resolution”) to allow the payment of legal fees to be paid by the Council of the City of South Perth, advice has been received that the resolution may be interpreted to apply to any Councillor whether or not adverse findings are made against that Councillor in the Department of Local Government Enquiry Report, whether or not there was an intention to claim legal fees by that Councillor. The City has also received advice that:
(a) The original resolution was invalid;
(b) The CEO should not comply with it; and
(c) The original resolution should be revoked as soon as possible.
I do not accept I had an interest in the original resolution. The subsequent legal advice does not reflect my understanding of the original resolution or the advice provided to Councillors by the CEO prior to the Council Meeting on 27 March 2007.*
2. *I consider that I do not have an interest in a motion to revoke the original resolution; particularly in light of the fact that it appears that the CEO will not implement it. It appears that the City Officers do not share my view, although it is not apparent that they have received independent legal advice on this issue.*
3. *However, to facilitate the consideration of revocation of the resolution, Item 11.1 and to avoid subsequent issues with participation in this matter, I am prepared to make a declaration of a financial interest in a motion to revoke the original resolution for the purposes of obtaining dispensation from the Minister under s 5.69 of the Local Government Act 1995, but I do so without prejudice to my assertion that I do not have a financial interest in the motion for revocation of the original resolution.”*

The Mayor read aloud the following Declaration of Interest received from Cr Jamieson in relation to Agenda Item 6.1.

“Further to your Memorandum dated 29 May 2007 I wish to provide a statement in relation Agenda Item 6.1 contained on the Agenda of the Special Council Meeting scheduled for 6 June 2006, as follows:

1. *Following the Council decision on 27 March 2007 at Item 11.2 advice has been received that the resolution may be interpreted to apply to any Councillor whether or not adverse findings are made against that Councillor in the Department of Local Government Report, whether or not there was an intention to claim legal fees by that Councillor. I am advised the City has also received other advice about motion validity and revoking the resolution. I do not accept I had an interest in the original motion.*
2. *I believe I do not have an interest in a motion to revoke the original motion.*
3. *To facilitate consideration of revocation of the resolution , Item 6.1, and to avoid subsequent issues with participation in this matter, I am prepared to make a declaration of a financial interest in item 6.1 to revoke the original resolution for the purposes of obtaining dispensation from the Minister under s 5.69 of the Local Government Act 1995. However I do so without prejudice to my assertion that I do not have a financial interest in the motion for revocation of the original resolution.”*

DECLARATION OF INTEREST CR GLEESON ITEM 6.1

Cr Gleeson reported having lodged his Declaration of Interest with the Administration on Tuesday 5 June 2007. The Chief Executive Officer confirmed that he did not have a declaration from Cr Gleeson. In view of this information Cr Gleeson then read aloud his Declaration of Interest which was the same as that read aloud for Crs Cala, Macpherson, Maddaford, Ozsdolay, Trent, Wells and Mayor Collins:

DECLARATION OF INTEREST CR BEST ITEM 6.1

The Mayor reported that Cr Best wished to make a declaration in relation to Item 6.1, as follows:

“I maintain my view that in my opinion I do not have a financial conflict of interest regarding this Motion. The allegation unfortunately leaves me with no choice but to leave the Chamber and not participate in, or be present during, any discussion or decision-making procedure relating to the matter.”

DECLARATION OF INTEREST CR DOHERTY ITEM 6.2 part (b)(1)

“I disclose I have an indirect association with the Institute of Arbitrators and Mediators Australia (IAMA) in that my husband Kim Doherty is the Deputy Chairman of the WA Chapter of this organisation. This is a voluntary position, for which he receives no remuneration. My husband has no financial interest in IAMA. My husband has no involvement in either nominating mediators or putting forward names for mediator lists. I understand that he has not been identified by IAMA as a potential appointee. I do not accept that his association amounts to an ‘interest’ within the definition. However, to minimise the risk of mischievous or ill informed comment, I have set out the nature of the association and declare that I will consider the matter on its merits and vote accordingly.”

Note: Minutes Amended at Ordinary Council Meeting 26 June 2007 to include the following statement from Cr Doherty and Memo to Cr Doherty from the CEO on the same topic.

Statement in relation to Code of Conduct issue:

- Appreciate possibility of Code of Conduct issue being brought to my attention by the CEO.
- Identification that matter had the potential to escalate if not addressed
- Concern regarding manner in which way this was issue was presented to me as a Councillor.
- In spirit of co-operation I had previously offered assistance to the CEO regarding the process of compiling list of mediators/facilitators because of my experience in mediation.

- Initiation of communication with channels still open.
- Accepted this offer was not taken up.
- In the context of my open communication, upon receiving notification from the CEO on Friday of last week in my weekly satchel re possible Code of Conduct issue I felt was both confrontational and adversarial.
- The comment in the Memo “*If conflict of interest situations are not properly identified and managed, they can endanger the integrity of the organization*” resulted in my feeling deeply hurt that my integrity had been called into question in this manner.
- Would sincerely have appreciated either a phone call or email message from the CEO advising that he had concerns about a possible Code of Conduct issue and even the opportunity to talk about the possible issue.
- Receiving document in this manner displayed both a lack of respect for me as a Councillor and poor interpersonal skills by the CEO.
- Through my actions as a Councillor I have publicly shown that I am more than willing, committed and ready to move on.
- The reinstatement of trust, respect and goodwill is not a one way street for this Council.
- The manner in which I was advised of a possible Code of Conduct issue clearly reflects that as a Councillor it is not a journey I travel alone as all parties need to work together to reach the best possible joint decisions that the circumstances allow.

Memo from CEO to Cr Doherty dated 1.6.2007 re Code of Conduct issue:

I feel it is necessary and appropriate to draw to your attention to the possibility of a Code of Conduct issue regarding a matter that you are involved in and the potential for it to escalate if it is not addressed. The matter concerns the City of South Perth Inquiry Report and in particular Recommendation 1 that deals with the need for mediation services.

You may recall that at the May Council meeting you moved and spoke on the following motion which was ultimately adopted by Council:

Moved Cr Doherty, Sec Cr Hearne

That.....

- (a) *Council notes the limited time period of 60 days from 10 May 2007 which is available to the Council to satisfy the Department for Local Government and Regional Development that it is addressing the recommendations of the South Perth Inquiry Report; and*
- (b) *in order to facilitate the mediation process contemplated in the Inquiry Report:*
 - (i) *the Council compiles a list of two (2) mediators/facilitators from each of the following (to total 6 in all) by inviting :*
 - LEADR (Institute of Arbitrators and Mediators Australia)
 - WA Chapter; and
 - WALGA*to nominate individuals and to include appropriate information as to fees;*
 - (ii) *the list to be presented to the Department for Local Government and Regional Development for its endorsement and adoption; and*
 - (iii) *final selection of the agreed mediator/facilitator from the list of nominees to be carried out by the Council as soon as practicable.*

CARRIED (10/1)

NOTE: *CR WELLS REQUESTED THAT HE BE RECORDED AS HAVING VOTED AGAINST THE MOTION*

When the Administration began to implement Council’s decision the websites of LEADR and IAMA were reviewed for contact details and it was noticed that the website of IAMA indicates that a Kim Doherty is recorded as the Deputy President of that organisation. It is understood that Kim is your husband. Your name is also recorded on the website - albeit in relation to an old subject.

On the basis that the website is correct and current and that the Kim Doherty referred to is your husband, I believe it would be in your best interest to record a declaration of a "Conflict of Interest" when this particular matter is discussed at the Special Council meeting on 6 June (and any other Council meeting at which mediation services relating to the Inquiry Report is discussed that relate to the May resolution). I say this because, you may recall that the Code of Conduct at clause 2.1 deals with Conflicts of interest and the relevant sections are repeated as follows:

2.1 Conflicts of Interest

- (a) *Members and employees will ensure there is no actual or perceived conflict or incompatibility between their personal interests and the impartial fulfilment of their public and professional duties.*
- (b) *Where a member or employee has a conflict of interest referred to in (a) above then that member or employee will openly and fully disclose the conflict of interest.*
- (f) *Members will make a disclosure before dealing with a matter that involves relatives or closely associated persons and will disqualify themselves from dealing with such a matter.*
- (g) *The onus is on members and employees to identify possible conflicts of interest and to determine whether such interests exist.*

It is acknowledged that the Code of Conduct is not legally binding or legally enforceable, but I am aware that the Inquiry Report attaches significant importance to it and its application.

I am sure you would be aware that in the public sector context, a conflict of interest involves a conflict between duty as a public officer, and personal or private interests. Conflicts of interest can also be perceived or potential. The perception that an elected member's private interests could improperly influence their public duty can be as important as an actual conflict of interest. This is because public confidence in the integrity of the organisation is vital.

A potential conflict of interest arises where an elected member has private interests that could conflict with their official duties in the future. Another type of conflict of interest can exist where an elected member has competing interests through more than one official role, or public duty. Conflicts of interest can occur quite frequently and are not necessarily unethical, or wrong. However, it is how they are identified and managed that is important. If conflict of interest situations are not properly identified and managed, they can endanger the integrity of organisations.

Having said that, I am very well aware that your involvement was for the best of intentions and these were well articulated and expressed publicly at the May Council meeting during the debate on the matter when you stressed the need for the highest standard independence when selecting a mediator. I also acknowledge your involvement has been to progress the important matter of mediation as quickly as possible and it is recognised that you have special knowledge and experience in this area.

In view of the contents of the Code of Conduct, could I respectfully suggest that you consider making a declaration of interest when this matter comes before Council, so that the matter of conflict of interest can be publicly recorded.

ANNOUNCEMENT MAYOR COLLINS

The Mayor read aloud a letter received from the Department of Local Government advising that a representative from the Department would be attending the Special Council Meeting on 6 June 2007.

5. PUBLIC QUESTION TIME *(in relation to Item 6)*

Opening of Public Question Time

The Mayor stated that questions from the public gallery must relate only to the items the subject of the Special Council Meeting. He then opened public question time at 7.17pm.

5.1. Mr Michael Cazalet, 35 River Way, Salter Point

Summary of Question

Mr Cazalet advised that he was authorised to act for the Dyer family in connection with the sale of the residence at 27 South Perth Esplanade. He provided background on the subsequent demolition of the property, to Cr Smith's support in this matter and to the May Council Agenda and the proposed censure motion against Cr Smith. Cr Cazalet stated that he wrote an important letter in support of Cr Smith which he delivered to the Council Administration on 23 May with a request that it be forwarded to the Mayor and all Councillors which did not happen: Will the Mayor now enquire into administration procedures whereby communications are not relayed as requested and seek to have censured the responsible personnel?

Summary of Response

The Chief Executive Officer stated that he certainly recalled the letter coming in and presumed that it had been circulated as requested. He said he would investigate the matter.

5.2. Mr Barrie Drake, 2 Scenic Crescent, South Perth

Summary of Question

If a Councillor is forced to appoint legal advice, why cannot normal rules apply? ie if successful they can apply for costs, if not they carry their own costs?

Summary of Response

The Mayor replied that there is a policy in place whereby a Councillor can make an application in this regard.

5.3. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In relation to Item 6.1 it appears that all but one Councillor has declared a Financial Interest. Could any Councillors benefit from rescinding this Motion?

Summary of Response

The Mayor said no.

Summary of Question

Could any Councillor gain from rescinding this Motion?

Summary of Response

The Mayor stated that he did not believe so.

Summary of Question

Could any Councillor have financial detriment by passing this Motion?

Summary of Response

The Mayor stated that there was a policy in place in this regard.

Summary of Question

In relation to obtaining legal advice, is there any limit to what staff can gain in legal advice.

Summary of Response

The Mayor stated that this was subject to the same policy.

Summary of Question

In relation to Item 6.2 there is reference to a budget amount of \$40,000 for training. Since 2002 how much has Council spent on training Councillors in their role and the role of CEO?

Summary of Response

The Mayor stated that the question was taken on notice.

Summary of Question

Given that under the *Local Government Act* the role of Councillors and the CEO is limited to a handful of sections of the Act, where could \$40,000 be spent on training on these few sections?

Summary of Response

The Mayor suggested that the figure quoted in the report would be an estimate only. The Chief Executive Officer confirmed that this was correct and that Council will determine the extent of the training. He said that if the amount spent on training does not come up to \$40,000 the excess funds would be used elsewhere and that if it was more than \$40,000 additional funding would have to be found. The CEO also stated that the indication he had received from the Department is that they would certainly like to see some training put in place well before the 2007 elections with more comprehensive training post the 2007 elections.

Summary of Question

Since the 2002 elections has Council provided Councillors with a copy of the Local Government Act?

Summary of Response

The Mayor advised that copies of the *Local Government Act* are available in the Councillors' lounge.

Summary of Question

WALGA has a good guide to Local Government, has any Councillor been provided with this?

Summary of Response

The Mayor and three Councillors indicated that they had received a copy.

Summary of Question

Would it be the responsibility of a CEO to ensure that each Councillor has a 'rule book' of all Councillors' duties ie *Local Government Act*, Standing Orders, Town Planning Scheme etc . Has the CEO provided this type of document?

Summary of Response

The Mayor stated that as part of their induction program in 2002 Councillors were provided with all the necessary documents to assist them in carrying out their duties. He further stated that the bulk of Members had received on-the-job training since 2002.

Summary of Question

Read the report and the recommendation as to the role of Councillors and the CEO. Will the CEO be undertaking education on his role and also that of Councillors?

Summary of Response

The Mayor stated that 'Terms of Reference' were to be compiled in this regard and that they would cover all facets of this recommendation.

Summary of Question

What education has the CEO undertaken on his role as a CEO and his responsibilities to Councillors?

Summary of Response

The Chief Executive Officer said he had been a senior member of three major City local governments over the past 25 years. State President of LGMA which represents all professional officers in the State. Represented WA on the National LGMA Board and represented WALGA, LGMA and the Department of Local Government on many state government bodies and committees on a large range of matters. Thoroughly involved in the review of the Local Government Act 2005. Acting Chief Executive Officer of one of the largest cities in the State on many occasions. Acting Chief Executive Officer of the City of South Perth during the time of the Commissioners for a period of 2 years and Chief Executive Officer for the City of South Perth for the past 2 years.

Summary of Question

The report mentions a mediator in Code of Conduct issues. How many code of Conduct issues have been issued and how many have been resolved to the satisfaction of all parties concerned and how many left to still reach a conclusion?

Summary of Response

The Mayor responded that he would not be able to answer how many as Code of Conduct issues are confidential.

Close of Public Question Time

The Mayor closed Public Question Time at 7.38pm

6. REPORTS

6.1 Consideration of Revoking Item 11.2 March 2007 Council Minutes

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/108
Date:	28 May 2007
Author:	Cliff Frewing, Chief Executive Officer

Summary

The purpose of this report is to consider revoking the Council decision at Item 11.2 of the March 2007 Council Meeting relating to a Notice of Motion lodged by Cr Smith but moved by Cr Best as Cr Smith declared a financial interest in the item and left the Chamber. The motion was as follows:

Item 11.2

That

- (a) *it has become apparent that in relation to the Inquiry presently being conducted by the Department of Local Government and Regional Development re a matter concerning the City of South Perth it is possible that an adverse finding can be made against any Councillor of the City of South Perth who gave evidence;*

- (b) *therefore, I move that any Councillor who wishes to engage a Lawyer to advise him or her of their legal position and act for them should have their legal expenses paid by the Council of the City of South Perth.*

CARRIED (7/5)

Background

At the April Council meeting (Item 11.1) and consistent with legal advice received on the unlawfulness of the resolution, Cr Ozsdolay submitted a Notice of Motion to rescind the resolution.

The resolution was expressed in the following terms:

That....

- (a) *that consideration be given to revoking Item 11.2 “Department of Local Government Inquiry - Legal Fees” insofar as it relates to the Minutes of the Council Meeting dated 27 March 2007 as follows:*

Item 11.2

That

- (a) *it has become apparent that in relation to the Inquiry presently being conducted by the Department of Local Government and Regional Development re a matter concerning the City of South Perth it is possible that an adverse finding can be made against any Councillor of the City of South Perth who gave evidence;*
- (b) *therefore, I move that any Councillor who wishes to engage a Lawyer to advise him or her of their legal position and act for them should have their legal expenses paid by the Council of the City of South Perth.*

**Note: Support of a Minimum of one third of the Members is Required*

- (b) *Item 11.2 insofar as it relates to the Minutes of the Council Minutes dated 27 March 2007 be revoked:*

** Note : An Absolute Majority is Required*

The legal advice previously obtained by the City concluded that the resolution passed by Council at its March meeting for the payment of legal expenses incurred by any councillor was unlawful because *inter alia* it imposed an indeterminate financial liability on the City that cannot be considered to be in the interests of, or for the good government, of the City. The advice recommended that the resolution should be revoked at the earliest opportunity.

It also advised that it is likely that because of the terms of the resolution, each councillor had a financial interest in the matter and should not have participated in the decision-making process without appropriate amendments to the resolution or an appropriate determination by the Minister under section 5.69 of the *Local Government Act*.

Subsequent to the receipt of that advice, the Department of Local Government has written to councillors seeking an explanation for their participation in the meeting which passed the resolution on the basis that they had failed to disclose an interest in the matter when it came before Council. The Department noted that any councillor would be entitled to receive a financial benefit in the form of payment of legal expenses not only those who may be the subject of “adverse” findings.

Comment

In view of the legal advice received, which is consistent with the Department's concerns on the matter, Councillors Gleeson, Maddaford, Jamieson, Hearne, Macpherson, Ozsdolay, Cala, Wells, Doherty, Trent and Mayor Collins declared an interest in Item 11.1 on the April Council Agenda under section 5.65 of the Act. However because of the number of Declarations of Interest received would have left only Cr Best in the Chamber, it meant the meeting did not have a quorum and therefore the item could not be dealt with.

It was then left with the CEO to make application to the Minister under section 5.69 of the Act for a determination by the Minister allowing the Councillors who declared a financial interest, to participate in the debate to the extent and in accordance with whatever conditions the Minister determines to be appropriate.

In reply to the correspondence of the CEO, the Minister replied in a letter dated 21 May 2007, **Attachment 6.1(a)**, and received by the CEO in the afternoon on the day of the May Ordinary Council meeting. The letter granted an exemption and allowed those Councillors who declared a financial interest (other than Cr Smith) to participate in discussion and decision making procedures relating to the rescission motion at the May 2007 Council meeting only.

This item of correspondence was introduced to the meeting as "New Business of an Urgent Nature". The Minister's exemption does not allow Councillor Best or Cr Smith to participate in the debate on this item. Cr Best is not exempted because he did not declare a financial interest and Cr Smith because he did declare an interest. The letter also stated that despite 'approval' that fresh declarations of interest are required to be made at the time this item is to be debated.

Following discussion at the May Council meeting as to whether to deal with the item of Late Business as tabled, Council did not deal with the matter because of its 'late notice' and it was agreed that the CEO would seek approval from the Department of Local Government for the matter be dealt with at the Special Council Meeting scheduled for 6 June 2007 or alternatively at the June Ordinary Council Meeting.

A letter was written to the Department in accordance with the terms of the debate requesting that the approval to debate the rescission motion be transferred from the Ordinary Council Meeting on 22 May 2007 to the Special Council Meeting on 6 June 2007. The Director General of the Department of Local Government, acting within delegated authority of the Minister, has agreed to this request on the same conditions that applied to the initial approval contained in the letter dated 21 May 2007.

The Council is now able to consider the rescission motion at the Special Council Meeting in accordance with the terms and conditions outlined in **Attachment 6.1(b)**.

Consultation

Consultation has occurred with the Department of Local Government and Regional Development and correspondence written to the Minister for Local Government.

Policy and Legislative Implications

Minister's approval sought in accordance with s.5.69 of the *Local Government Act*.

Financial Implications

Potentially unlimited at the present time if the original Motion is acted upon and unless the March 2007 Motion is rescinded.

Strategic Implications

The report and recommendations are consistent with the relevant Goal 5 - Organisational Effectiveness - City's Strategic Plan: - *To be a professional, effective and efficient organisation.*

OFFICER RECOMMENDATION ITEM 6.1

That....

- (a) that consideration be given to revoking Item 11.2 "Department of Local Government Inquiry - Legal Fees" insofar as it relates to the Minutes of the Council Meeting dated 27 March 2007 as follows:

Item 11.2

That

- (a) *it has become apparent that in relation to the Inquiry presently being conducted by the Department of Local Government and Regional Development re a matter concerning the City of South Perth it is possible that an adverse finding can be made against any Councillor of the City of South Perth who gave evidence;*
- (b) *therefore, I move that any Councillor who wishes to engage a Lawyer to advise him or her of their legal position and act for them should have their legal expenses paid by the Council of the City of South Perth.*

***Note: Support of a Minimum of one third of the Members is Required**

- (b) Item 11.2 insofar as it relates to the Minutes of the Council Minutes dated 27 March 2007 be revoked:

*** Note : An Absolute Majority is Required**

Note: Only Mayor Collins and Councillors, Gleeson, Hearne, Macpherson, Jamieson, Ozsdolay, Cala, Wells, Maddaford, Doherty and Trent may participate in the debate and decision making process if a declaration of financial interest is made by each of those Elected Members.

DECLARATIONS OF INTEREST CRS BEST AND SMITH ITEM 6.1

Note: Crs Best and Smith declared an interest and left the Chamber at 7.40pm

Cr Jamieson point of clarification - as this is about Cr Smith getting legal advice, what process will Cr Smith follow now?

Mayor Collins stated that the issue was not about Cr Smith. He said that there was a policy in place which deals with 'legal representation'.

COUNCIL DECISION ITEM 6.1 PART (a)

Note: In relation to part (a) of the recommendation, Crs Macpherson, Hearne, Maddaford, Doherty, Gleeson, Ozsdolay, Cala, Wells, Trent and Mayor Collins supported considering the Motion to revoke Item 11.2 of the Minutes of the March 2007 Ordinary Council Meeting.

COUNCIL DECISION ITEM 6.1 PART(b)

Moved Cr Trent, Sec Cr Macpherson

That Item 11.2, as follows, insofar as it relates to the Minutes of the Council Minutes dated 27 March 2007 be revoked:

Item 11.2

That

- (a) *it has become apparent that in relation to the Inquiry presently being conducted by the Department of Local Government and Regional Development re a matter concerning the City of South Perth it is possible that an adverse finding can be made against any Councillor of the City of South Perth who gave evidence;*
- (b) *therefore, I move that any Councillor who wishes to engage a Lawyer to advise him or her of their legal position and act for them should have their legal expenses paid by the Council of the City of South Perth.*

CARRIED (11/0)

By Required Absolute Majority

Note: Crs Best and Smith returned to the Chamber at 7.42pm

6.2 Response to Report of the Inquiry into the City of South Perth

Location: City of South Perth
Applicant: Council
File Ref: A/LM/2
Date: 28 May 2007
Author: Cliff Frewing, Chief Executive Officer

Summary

The purpose of this Special Council meeting is to give early agreement to the Report Recommendations noting that the Council has until 16 July 2007 to finalise the details relating to each of the individual recommendations.

Upon receipt of the **Report of the Inquiry into the City of South Perth - May 2007** (the Report), the City is required to provide the Minister for Local Government with its written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the Report.

Background

On 20 June 2006, the Director-General of the Department of Local Government and Regional Development authorised an Inquiry into the City of South Perth pursuant to section 8.3(2) of the *Local Government Act* (the Act) to inquire into and report on matters concerning the City.

The Terms of Reference for the inquiry were as follows:

- The process by which the City dealt with the issue of the demolition application and associated matters relating to the property at 27 The Esplanade, South Perth;
- The conduct of Councillors and Officers of the City in the application and processing of the demolition licence relating to the property at 27 The Esplanade;
- Subsequent Council deliberations on the matter, and
- Any other issue that is determined to be of relevance to the above.

Following completion of the inquiry, the Authorised Person prepared a report on the outcome of the inquiry which upon being tabled in State Parliament was forwarded to the City and subsequently made publicly available. A copy of the Report can be found on the Department's website and on the City's website.

The Report made 15 Findings and 7 Recommendations. This report to Council deals with an initial response to the 7 recommendations.

Powers and procedure

After receiving the Report, section 8.14(3) of the Act requires the local government to give the Minister written advice, within such time as the Minister allows, setting out the things that it has done or proposes to do to give effect to the recommendations of the Authorised Person.

S.8.14(3) of the Act specifies that :

Within 35 days after receiving the report or such longer period as the Minister allows, the local government is to give the Minister written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the authorized person.

In accordance with this provision, the Minister by letter dated 17 May 2007 exercised her discretion and has allowed the City sixty (60) days (to 16 July) in which to respond to the Report Recommendations.

Pursuant to section 8.15(1) of the Act, after receiving the local government's advice, the Minister may order the local government or any of its Elected Members or employees to give effect to the recommendations in the report in a manner and within a time ordered by the Minister.

If the Minister's order is not complied with, the Minister may suspend the Council of the local government - see section 8.15(2) of the Act.

Comment

The report of the Inquiry into the City of South Perth 2006 contains 15 Findings and 7 Recommendations. It is proposed that Council respond to the Minister in a positive way to each of the recommendations to avoid the consequences detailed in S.8.15 of the Act detailed above.

REPORT RECOMMENDATIONS

It is clear that in any event, Council has already commenced its response in a positive way by adopting resolutions relating to the need for mediation (Recommendation 1) and audio recording of meetings (Recommendation 4).

To a large extent the commentary provided in this report is based on discussions held between the Mayor, Chief Executive Officer, Legal and Governance Officer of the City, and the Director General, Director Governance and Statutory and the Manager Compliance and Advice of the Department of Local Government and Regional Development.

The section of the report that follows identifies the Inquiry Report Recommendations, any Council or administration action that has occurred or is relevant and an officer recommendation.

- R1. Council appoint a professional mediator to moderate the relationship conflicts between elected members and the Administration, and that:**
- (a) The mediator be appointed from a list of suitable persons approved of by the Department of Local Government and Regional Development;**
 - (b) The mediator report monthly to the Department of Local Government and Regional Development on an agreed basis; and**
 - (c) The cost of the mediation be borne by the City of South Perth.**

In relation to recommendation 1(a) above, Council resolved at its Ordinary Meeting held on 22 May 2007 to compile a list of mediators drawn from LEADR, Institute of Arbitrators and Mediators Australia, WA Chapter (IAMA), and WALGA for inclusion in a list to be presented to the Department for its approval.

The specific Council resolution is as follows:

That.....

- (a) Council notes the limited time period of 60 days from 10 May 2007 which is available to the Council to satisfy the Department for Local Government and Regional Development that it is addressing the recommendations of the South Perth Inquiry Report; and**
- (b) in order to facilitate the mediation process contemplated in the Inquiry Report:**
 - (i) the Council compiles a list of two (2) mediators/facilitators from each of the following (to total 6 in all) by inviting :**
 - LEADR
 - Institute of Arbitrators and Mediators Australia WA Chapter; and
 - WALGA**to nominate individuals and to include appropriate information as to fees;**
 - (ii) the list to be presented to the Department for Local Government and Regional Development for its endorsement and adoption; and**
 - (iii) final selection of the agreed mediator/facilitator from the list of nominees to be carried out by the Council as soon as practicable.**

In accordance with the resolution the following has occurred:

- LEADR provided a list of 7 names. Each of these has been contacted and asked to provide a CV. At the time of writing the report 5 would like to be considered and 1 has declined.
- IAMA provided a list of 4 names. Each of these has been contacted and asked to provide a CV. At the time of writing the report 2 would like to be considered and none have declined.
- WALGA provided a list of 3 names. Each of these has been contacted and asked to provide a CV. At the time of writing the report 1 would like to be considered and none have declined.

A list of the names of all mediators the City has contacted to date is contained as **Confidential Attachment 6.2**. When responses have been received from all names provided by the three organisations, details will be provided to Council so that a 'short list' can be selected to comply with the May resolution. Alternatively, Council may wish to submit all names willing to be considered to the Department of Local Government and Regional Development for consideration to be included on the 'approved list'.

The Department of Local Government and Regional Development has also indicated that it has the names of suitable mediators worthy of consideration. The names have not yet been identified to the City and may include names already provided to the City.

Whether Council elects to submit all submissions received or the 6 referred to in the May resolution, the Director-General of the Department will provide a list of professional mediators who have been approved by and who are recommended by the Department for Council to make a selection.

Terms of Reference and a set of Agreed Outcomes will be developed in conjunction with the mediators prior to the commencement of the mediation process.

In relation to Recommendation 1(b), as this is a requirement set by the Minister on the appointed mediator, there is no role for the Council. It is however suggested that as part of the appointment, the mediator also report monthly to the City on the same basis.

In relation to Recommendation 1(c), it is difficult to accurately assess the likely costs involved as no mediator has yet been appointed and the timeframe of the appointment is also unknown. It is assumed that the appointed mediator could commence in August 2007 (ie within one month of the date that the response is required to be made).

The Department of Local Government and Regional Development has advised that the monitoring and need for mediation will continue past the October 2007 elections. On this basis, it is assumed that the mediator's services will be required for a period of at least 8 months to April 2008 .

Possible monthly involvement by the mediator could include attendance at Briefing/Concept Forums, Agenda Briefings and Council meetings. An initial one-on-one interview with either individuals and / or groups and the Department of Local Government and Regional Development would also appear likely. Monthly reporting is mandatory. It is suggested that a provisional sum of \$40,000 be allowed in the 2007/08 Budget for this purpose.

Officer Recommendation on Resolution R1

Council agrees to adopt Recommendation R1 and resolves to appoint a professional mediator to moderate the relationship conflicts between elected members and each other and between elected members and the Administration, in accordance with the terms of Recommendation R1.

R2. *Council ensures that elected members undertake elected member training, provided by a training provider approved by the Department of Local Government and Regional Development, particularly in matters relating to:*

- (a) The role and powers of the Chief Executive Officer and Administration;***
and
- (b) The role of Council and Councillors.***

The Department advises that more than one training provider would likely be required to satisfy the terms of this report recommendation. For example, an experienced Mayor / President and/or Local Government CEO may be engaged in the first instance to provide advice on elected member / employee relationships. This advice would be supplemented with specific training for elected members to satisfy the terms of the report recommendation. The use of WALGA training modules is a possibility and information is currently being sought on possible training providers and availability.

A list of suitable names of training providers is currently being assembled for approval by the Department of Local Government and Regional Development.

Given the likely commencement of such an assignment would be August and that the 2007 Local Government elections are being held in October it is not considered appropriate to arrange a comprehensive training program during the remaining term of this Council. It is considered important however that Council does recognise the need for and benefit for some interim training on the role and powers of the Mayor, Deputy Mayor, Council, Councillors, Chief Executive Officer and administration.

It is therefore proposed that in the short intervening period between approval of the elected member training plan by the Department of Local Government and Regional Development and the October elections, either a current or past serving Mayor or President be engaged to conduct an interim training program. On election of the new Council in October 2007, a more comprehensive training program will be conducted for both existing and new elected members (if any). A proposed training plan will be developed for Council consideration so that it may be considered by Council as part of its final response to the Inquiry Report recommendations. Council can then give consideration to engaging the person(s) to provide induction workshops for existing and newly elected members coming on to Council on the subjects contained in this report recommendation after the October election.

The costs incurred by the training providers appointed will be borne by the City. A notional sum of \$40,000 will be provided for in the 2007/08 draft Budget for this purpose.

Officer Recommendation on Resolution R2

Council agrees to adopt Recommendation R2 and resolves to appoint training providers approved by the Department. The training providers will be required to report to Council monthly on the outcomes of the program of elected member training.

R3. Elected members observe and comply with the City of South Perth Code of Conduct and the future new rules of conduct for elected members under the Local Government (Official Conduct) Amendment Act 2007.

The commentary contained in the Inquiry Report at pages 4.7 / 4.8 in relation to this recommendation is simply as follows:

Elected Members have displayed an unacceptable attitude towards the City's Code of Conduct. This has perpetuated a climate of mistrust, a lack of respect for fellow members, and a lack of goodwill. This behaviour must cease if Council is to move forward from its problems.

The role of a Local Government Code of Conduct is detailed at 1.14 / 1.16 of the Inquiry Report and is obviously a very significant corporate document of the City. It applies to elected members and employees and must be taken seriously by all those persons to whom it applies.

The existing Code will be supplemented by mandatory provisions which will apply from the date of the October 2007 elections. Although these have not yet been finalised as they are in draft form, the provisions will prescribe high standards of behaviour and will be actionable in accordance with the Local Government official Conduct legislation recently passed by Parliament.

As a separate issue, a report on this topic is being prepared for consideration at the June Ordinary Council meeting.

In the meantime, it is considered appropriate to propose that training will be conducted on the content of the current Code of Conduct and new provisions when gazetted.

Officer Recommendation on Resolution R3

Council agrees to adopt Recommendation R3 and resolves to engage a training provider to hold workshops for elected members on the City's current Code of Conduct and on the new rules of conduct which will apply to elected members after the October election.

R4. *The City of South Perth commence audio recording of all Council and Committee meetings as recommended in the Report of the Inquiry into the City of South Perth (October 2002) as a backup to written minutes of meetings.*

It is noted that the development of a policy on the audio recording of council meetings is already well advanced and that Council will have the opportunity to resolve on adopting the policy at its ordinary June meeting.

A proposed draft policy on audio recording will be considered at the Audit and Governance Committee meeting also to be held on 6 June 2007. Software solutions are currently being investigated and assessed and when acquired training will need to be conducted prior to being used 'live'. A lead-in time of up to a couple of Council meetings is not considered unreasonable following a Council decision to implement audio recording. It is not thought necessary to record committee meetings where no delegated authority exists. The Department of Local Government and Regional Development concurs with this view.

Officer Recommendation on Resolution R4

Council agrees to adopt Recommendation R4 with the qualification that as its committees do not exercise delegated power, audio recording will be implemented for Council meetings only.

R5. *The Department of Local Government and Regional Development, at its discretion, will monitor Council meetings through attendance at those meetings.*

The Department of Local Government and Regional Development officers will be attending all Council meetings to monitor progress in rectifying deficiencies identified in the Report. The officers will be attending council meetings whether or not they are open to the public. There is no action required on this recommendation apart from formally acknowledging this direction.

Officer Recommendation on Resolution R5

Council agrees with Recommendation R5 and resolves to invite Departmental officers to attend all council and committee meetings including those which are not open to members of the public.

R6. *Where Code of Conduct complaints are about the Mayor, an elected member or the CEO, those complaints should be referred to an independent person for assessment, appointed with the approval of the Department of Local Government and Regional Development. Subsequent to the Local Government (Official Conduct) Amendment Act 2007 being gazetted, the assessment and determination of Code of Conduct matters concerning elected members be in accordance with the process and procedures of that legislation.*

The recommendation requires any future Code of Conduct complaints that have been made by or against the Mayor, Councillors and Chief Executive Officer be reported directly to the Department of Local Government and Regional Development.

This is an interim measure until the Official Conduct legislation comes into effect in October 2007. There is no role for the Council other than to appoint a person approved by the Department of Local Government and Regional Development to investigate and report on complaints. Individual complaints would be referred directly to that person to investigate.

The Department is in the process of compiling a list of suitable names from which a person or persons may be selected to perform this task. The person appointed will be required to provide a written report to the Department of Local Government and Regional Development detailing the number of complaints assessed, the nature of those complaints and whether those complaints have been resolved to the satisfaction of the parties.

The costs incurred by the training providers appointed will be borne by the City. A notional sum of \$40,000 will be provided for in the 2007/08 draft Budget for this purpose.

Officer Recommendation on Resolution R6

Council agrees to adopt Recommendation R6 and resolves to ensure that an independent person, approved by the Department, will be appointed for the assessment of any Code of Conduct complaints that have been made by or against the Mayor, Councillors and the CEO.

R7. The Department of Local Government and Regional Development advise the Minister for Local Government, within a time to be determined, on Council's progress in addressing the breakdown in working relationships and other issues that this report has identified. The Department's advice will encompass:

- (a) Whether the mediation process has been successful and resulted in improved relationships between elected members and the Administration;*
- (b) Advice from the independent assessor detailing the numbers of complaints that have been assessed, the nature of those complaints and whether those complaints have been resolved to the satisfaction of the parties concerned, as well as determinations made by the Standards Panel and/or the State Administrative Tribunal under the Local Government (Official Conduct) Amendment Act 2007;*
- (c) Any other matter relevant to the provision of good government at the City; and*
- (d) Whether, based on the advice provided in (a), (b) and (c) above, the Council should be suspended and a Panel Inquiry authorised pursuant to Part 8 Division 2 of the Local Government Act 1995.*

This recommendation does not directly relate to the City of South Perth. It does however illustrate the extent of the reporting relationship by the independent persons to Council and the Department through to the Minister. Clearly the Minister needs to be satisfied that good governance is being practiced at the City and that Council is complying with the Report Recommendations.

Officer Recommendation on Resolution 7

Council agrees with Recommendation R7 and resolves to cooperate fully with the Department in the implementation of all recommendations and to do so expeditiously and comprehensively.

Consultation

The Director-General of the Department of Local Government and Regional Development was consulted on matters relating to the implementation of recommendations in the Report. Other organisations as mentioned have been contacted regarding provision of services.

Policy Implications

A new policy P517 “Audio Recording of Council Meetings” relevant to recommendation R4 is currently under development and may shortly be adopted by Council.

Financial Implications

There are likely to be significant financial implications for the City by complying with the Report Recommendations. The recommendations do not have a ‘sunset’ date and will therefore apply until the Minister is satisfied that deficiencies contained in the Report are rectified. The Monitoring will certainly apply until well after the October 2007 elections (a minimum period of 6 months, until April 2008, is suggested). It is not unreasonable to suggest a total budget in the order of \$100,000 as follows:

Mediator -	\$40,000
Training providers -	\$40,000
Code of Conduct Complaints	<u>\$20,000</u>
Total	\$100,000

This sum has been provided in the 2007/08 Budget as a provisional amount.

Strategic Implications

Consistent with the Strategic Plan: Goal 5 “Organisational Effectiveness” *To be a professional, effective and efficient organisation.*

OFFICER RECOMMENDATION ITEM 6.2
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That....

- (a) the Report of the Inquiry into the City of South Perth - May 2007 (the Report) be received;
- (b) in accordance with section 8.14(3) of the *Local Government Act*, the Minister for Local Government be advised of the following resolutions which set out the things that the City has done or proposes do, to give effect to the seven (7) Recommendations of the Report:
 1. Council agrees to adopt Recommendation R1 and resolves to appoint a professional mediator to moderate the relationship conflicts between elected members and each other and between elected members and the Administration, in accordance with the terms of Recommendation R1.
 2. Council agrees to adopt Recommendation R2 and resolves to appoint training providers approved by the Department. The training providers will be required to report to Council monthly on the outcomes of the program of elected member training.
 3. Council agrees to adopt Recommendation R3 and resolves to engage a training provider to hold workshops for elected members on the City’s current Code of Conduct and on the new rules of conduct which will apply to elected members after the October election.
 4. Council agrees to adopt Recommendation R4 with the qualification that as its Committees do not exercise delegated power, audio recording will be implemented for Council meetings only.
 5. Council agrees with Recommendation R5 and resolves to invite Departmental officers to attend all council and committee meetings including those which are not open to members of the public.
 - 6.. Council agrees to adopt Recommendation R6 and resolves to ensure that an independent person, approved by the Department, will be appointed for the assessment of any Code of Conduct complaints that have been made by or against the Mayor, Councillors and the CEO.

7. Council agrees with Recommendation R7 and resolves to cooperate fully with the Department in the implementation of all recommendations and to do so expeditiously and comprehensively.

MOTION

Cr Trent moved the officer recommendation, Sec Cr Maddaford

PROCEDURAL MOTION

Moved Cr Jamieson, Sec Cr Smith

That in respect to the new Standing Orders Local Law, part 8.10, that Council suspend Standing Orders in regard to the 'duration of speeches' to allow 10 minutes without the consent of the Council, which if given, is given without debate.

Cr Jamieson opening for the Procedural Motion

- currently part 8.10 of Standing Orders say a person gets 5 minutes with a cap of 10 minutes
- believe important things need to be stated - do not want Councillors constrained
- support extension of time

The Mayor put the Motion

LOST (6/7)

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- had a situation - got the report
- now have to get on and bring good governance to South Perth
- put the past behind us and get on with it
- support the Motion

Cr Maddaford for the Motion

- nothing further to add
- support the Motion

Cr Smith against the Motion

- opposed to findings of report, especially those predicated to me
- will do everything possible to overturn those findings to extent of taking it to the Ombudsman
- Councillors have right to natural justice especially me
- will be debating this - I am going to typify two situations that the findings are flawed
- will not let out my lawyer's rebuttal over one of the findings
- will take every opportunity to defend my honesty and integrity and take whatever steps necessary to clear my name

Cr Cala point of clarification - Item 1 within the Code of Conduct in relation to the mechanism to undertake mediation states the Mayor has the right to appoint a Mediator, is that correct?

Mayor Collins - stated that it was the first mechanism to be used.

Cr Cala point of clarification - why did you not utilise that mechanism 2 years ago?

Mayor Collins - stated that in 2005 Council resolved not to pursue this matter any further, however when the matter was then revoked it became a matter for a higher referee.

Cr Ozsdolay for the Motion

- did not read in the report where Cr Smith's honesty and integrity has been questioned
- Cr Smith is entitled to disagree with aspect of report, but I happen to agree with it
- crux of the Motion is we receive report - does not say if we agree or not
- acknowledge report and receive it
- important part is the recommendations - do we go forward or backwards
- hesitate to think what this has cost so far
- do we want to keep incurring costs - emotionally and financially
- need to agree - independent body has given their findings - do they have an agenda - yes 'good local government'
- urge Members support Motion and move forward.

Cr Jamieson against the Motion

In my opinion:

- issue was about a standard demolition licence with a couple of minor complications
- matter came to Council in the form of a motion only twice - first was 7 /8 months after the events. Motion was to close down further discussion. After democratic processes were followed the motion was carried by a majority
- second motion was a few months later. After new evidence was produced, Council had a motion to rescind the first motion so that the new evidence could be assessed, which again was proper process by Council, and was carried by a majority
- Instead of allowing Council to follow up on the matter by motion and democratic debate in the Chamber, the Mayor took action to go to the Department. This was unnecessary, a short circuit of a straight forward process for Council and a waste of taxpayers' and ratepayers' money.

Mayor Collins point of order - assertion the Mayor took the next step.

Cr Smith point of order - you (Mayor) keep referring to Code of Conduct as though it has legal backing in law.

Mayor Collins stated he disputed the comment.

- I had approximately one hour of Council time to deal with a matter that was relatively trivial and should not have escalated as it did.
- 1.5 years after the primary events, I am forced to have 4 to 5 hours of detailed investigation interviews of matters that had at best minor Council relevance
- confidential draft report went through a "Natural Justice" phase. What do you call it when natural justice does not occur? A large chunk of the report that is about me where I did not have natural justice – had not seen those passages before report was released - the key messages are out-of-context and flawed - believe I am owed an apology from the Department and/or authors of the report.
- report probably uses a level of proof of "beyond reasonable doubt". Since the COSP Code of Conduct uses a level of proof of "more likely than not"
- report does not state whether Mr Burrows provided the "whole truth" to Cr Smith, report does not state whether Mr Burrows provided the "whole truth" to Council, report does not state whether COSP documents went missing then reappeared which I specifically asked to be included in the report
- report does not discuss whether the CEO's investigation matched his claim that "never has he taken a matter so seriously". CEO was not present at the time of the incident and he did not interview all Council Members, which I specifically asked to be included in the report
- report does not state whether the CEO used his knowledge and experience and was constructive, or used his knowledge and experience and was obstructive.
- Council may revoke any decision it likes, particularly when new evidence comes to light.

Cr Jamieson against the Motion (cont'd)

- Council members signing Cr Smith's motion cannot and did not do so in support of the motion, but in support of bringing the matter forward again to Council - were doing so on the basis of new evidence that needed to be reviewed in the proper place – in the Chamber under standing orders in a Westminster democratic system.
- If motion had reached Council then it would have to be considered and debated in light of advice and either passed, amended or defeated. Cr Smith's motion never came to Council for debate.
- report does not consider the fact that it is not the moving of a motion that counts, it is the passing of a motion.
- I support any Council member's right to bring any matter forward then matters can be discussed where they belong – under standing orders in the Chamber. It is at this point that legal and other advice can be factored in to pass, amend or defeat a motion.
- report seems to consider that all discussions should occur outside the Chamber and pre-organised so that the motion and the result are known before proceeding to the Chamber for the moving of the motion, debate and vote - I do not support this consider the findings of the report in this area are not conducive to democratic Westminster processes.
- matter only came to Council for decision twice – once to close discussion and once to rescind that closure based on new evidence. Both motions were conducted democratically.
- report recommendations are relatively low level and reflect that the issue itself was trivial. In my opinion most of the recommendations are implicitly about lack of effective leadership - matches my perception the way the matter was handled
- investigation and draft report were wrapped up in confidentiality - report tabled under parliamentary privilege
- report into previous Council in 2002 was highly critical of several people when matter went to court the charges were thrown out - not sustained in court.
- if report into the previous Council in 2002 was not sustained in court, what changes have Department made in producing this report to make it more likely to provide a valid outcome? End result, a report tabled in State Parliament about a trivial matter
- recommendations in report are about leadership-type issues, not about ins / outs of the issue itself. Findings of report are not sustainable - too many open items not resolved in the inquiry and report
- report and recommendations did more to illustrate the lack of effective leadership at the City and Council than about any dispute

EXTENSION OF TIME

Moved Cr Ozsdolay, Sec Cr Hearne

That Cr Jamieson be granted an extension of time of 5 minutes.

CARRIED (13/0)

- Council attempted to have an externally facilitated reconciliation meeting between Council members - Motion was defeated on the casting vote of the Mayor
- Council has been attempting to have meetings recorded - administration recommended against recordings. Council voted it through but progress has been slow and laborious.
- Code of Conduct complaints about the Mayor, including: using undue influence over an acting CEO, failure to follow Standing Orders, intimidation/ bullying and a media statement that was factually incorrect, in my opinion have not been dealt with in an independent and full manner.

Cr Jamieson against the Motion (cont'd)

What will be done following the report:

- implement the recommendations, and exceed the recommendations
- lesson learned with regard to procedure - when signing a motion to be brought to Council, ensure text explicitly states I support the right to bring the motion to Council and will support or reject the motion based on the merits of the Council debate
- attempt to establish a better method of communication to the public, which is now controlled by the CEO and Mayor - all I want is the truth, the whole truth and nothing but the truth.
- restart by revisiting some Code of Conduct complaints about the Mayor – if not formally then at least in a manner of a professional mediator
- suggest preparing a template for Members wishing to obtain signatures for a motion to Council - signature supports the right to bring motion forward but not necessarily to support the motion

FORESHADOWED MOTION

Cr Jamieson foreshadowed he would be moving the following Motion if the current Motion was lost.

That....

- (a) the Report of the Inquiry into the City of South Perth - May 2007 (the Report) be noted;
- (b) the Findings of the Report not be accepted; and
- (c) in accordance with section 8.14(3) of the *Local Government Act*, the Minister for Local Government be advised of the following resolutions which set out the things that the City has done or proposes do, to give effect to the seven (7) Recommendations of the Report (*as per officer recommendation (b) 1 - 7*)

Cr Jamieson cont'd

- taken matter to extent that I can
- believe myself and Council have been short changed
- feel let down by process and mechanism

Cr Gleeson for the Motion

- talk about natural justice - there has been natural justice ie 2 Inquiries into 27 South Perth Esplanade
- one Inquiry by CEO and who did not accept the report findings - Cr Smith because no Councillors were interviewed

Cr Smith point of order - I told Cr Gleeson that the CEO never interviewed eleven Councillors in relation to the issue of Mr Burrows lying to Council.

- second Inquiry report called by Mayor done by Department of Local Government
- Department of Local Government interviewed every Councillor involved
- interviews done on oath ie 'tell the truth' - all Councillors were interviewed

Cr Smith point of order - Councillor is generalising

Mayor Collins - reminded Cr Gleeson to stick to the facts and not refer to other Members comments

- perception out there in the Community - what is wrong with you Councillors
- acknowledge I made an error of judgement at one point - I apologise for doing so

- embarrassed by Inquiry into City of South Perth should have been inquiry into Cr Smith

Cr Gleeson for the Motion (cont'd)

Mayor Collins point of order - The Mayor asked Cr Gleeson to withdraw his last comment in relation to Cr Smith.

Cr Gleeson withdrew the comment he made regarding Cr Smith.

- Department of Local Government Report should be endorsed 100%
- Inquiry done by Department of Local Government - an independent body
- if we do not support the Department's recommendations Council will be dismissed

Cr Hearne point of order - we are all part of one Council who make decisions

Cr Wells against the Motion

- problem with recommendation part (a)
- in report a couple of instances where I do not recall making statements as quoted
- believe I have no option other than to approve part (b) of the recommendation

AMENDMENT

Moved Cr Wells, Sec Cr Cala

That part (a) of the officer recommendation be amended by the word *received* being replaced with the word *noted*.

The Mayor put the Amendment.

CARRIED (8/5)

NOTE: CRS GLEESON AND MACPHERSON REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE AMENDMENT.

Mayor for the Motion

- report compiled by Department Local Government
- any rebuttal up to individual Councillors in relation to any findings
- no good blaming a particular Councillor or the Mayor
- when this Council moved a Motion it moves it as a whole
- tonight is about the Department's recommendations
- Council was moving down the path of mediation but waited for Inquiry Report to be handed down
- there is mediation and also a move to record future meetings already in place
- believe as a Council we are all involved not individuals
- recommendations need to be carried and the quicker the better
- in Section 4 it says that by these recommendations being implemented that this Council would govern correctly
- if this Council continues in personal conflict it cannot act as a governing body - community deserves better of this Council
- in three meetings time there will be an election where seven Members will be standing again
- we are all community members of South Perth - if we leave Council we need to go out knowing we are governing the City effectively
- agree we are not all going to get on socially outside of Council
- believe sincerely that all Councillors have given a huge amount to the City
- shame it has come to this but we have an opportunity to go forward and deliver to the City of South Perth what they deserve in good governance.

Cr Trent closing for the Motion

- nothing further to add
- move on - support the Motion

The Mayor put the Amended Motion

DIVISION ITEM 6.2

Cr Gleeson called for a Division

For the Motion

Against the Motion

Mayor Collins
Cr Cala
Cr Wells
Cr Maddaford
Cr Doherty
Cr Trent
Cr Gleeson
Cr Hearne
Cr Macpherson
Cr Ozsdolay

Cr Jamieson
Cr Best
Cr Smith

COUNCIL DECISION ITEM 6.2

That....

- (a) the Report of the Inquiry into the City of South Perth - May 2007 (the Report) be noted;
- (b) in accordance with section 8.14(3) of the *Local Government Act*, the Minister for Local Government be advised of the following resolutions which set out the things that the City has done or proposes do, to give effect to the seven (7) Recommendations of the Report:
 1. Council agrees to adopt Recommendation R1 and resolves to appoint a professional mediator to moderate the relationship conflicts between elected members and each other and between elected members and the Administration, in accordance with the terms of Recommendation R1.
 2. Council agrees to adopt Recommendation R2 and resolves to appoint training providers approved by the Department. The training providers will be required to report to Council monthly on the outcomes of the program of elected member training.
 3. Council agrees to adopt Recommendation R3 and resolves to engage a training provider to hold workshops for elected members on the City's current Code of Conduct and on the new rules of conduct which will apply to elected members after the October election.
 4. Council agrees to adopt Recommendation R4 with the qualification that as its Committees do not exercise delegated power, audio recording will be implemented for Council meetings only.
 5. Council agrees with Recommendation R5 and resolves to invite Departmental officers to attend all council and committee meetings including those which are not open to members of the public.

- 6.. Council agrees to adopt Recommendation R6 and resolves to ensure that an independent person, approved by the Department, will be appointed for the assessment of any Code of Conduct complaints that have been made by or against the Mayor, Councillors and the CEO.
7. Council agrees with Recommendation R7 and resolves to cooperate fully with the Department in the implementation of all recommendations and to do so expeditiously and comprehensively.

CARRIED (10/3)

7. CLOSURE

The Mayor closed the meeting at 8.23pm

DISCLAIMER

The minutes of meetings of the Council of the City of South Perth include a dot point summary of comments made by and attributed to individuals during discussion or debate on some items considered by the Council.

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate.

Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

These Minutes were confirmed at a meeting on 26 June 2007

Signed _____

Chairperson at the meeting at which the Minutes were confirmed.