



# Council Meeting 20 October 2015

## MINUTES

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**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBER, ON MONDAY, 20 OCTOBER, 2015 COMMENCING AT 6.35PM.**

**219. DECLARATION OF OPENING OF MEETING**

The Mayor (Presiding Member) declared the meeting open.

**219.1 Present**

|                 |   |
|-----------------|---|
| Mayor J O'Neill | Presiding Member                                  |
| Cr C Collinson  |   |
| Cr J Harrington |   |
| Cr A McPhail    |   |
| Cr M McPhail    |   |
| Cr D Nardi      |   |
| Cr L Nicholson  |   |
| Cr A Watkins    |   |
| Cr A White      |   |
| Mr G Clark      | Acting Chief Executive Officer                    |
| Mr T Paparone   | Acting Executive Manager Finance & Administration |
| Mr J Douglas    | Manager Planning Services (to 7.55pm)             |
| Ms W Cooke      | Projects Coordinator                              |
| Ms J May        | Minute Secretary                                  |

**220. ACKNOWLEDGEMENT OF COUNTRY**

The Presiding Member made the following acknowledgement:

*"On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place."*

**221. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF**

There were two members of the public in the gallery at the commencement of the meeting.

**222. RECORD OF APPROVED LEAVE OF ABSENCE**

Nil.

**223. RECORD OF APOLOGIES**

Nil.

**224. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS**

Nil.

**225. PUBLIC QUESTION TIME**

Nil.

**226. ELECTION OF DEPUTY MAYOR**

Mayor O'Neill called for nominations for the position of Deputy Mayor. Cr Nicholson nominated Cr Michael McPhail who accepted the nomination. Cr Harrington nominated for the position.

Crs McPhail and Harrington addressed elected members in support of their nomination for Deputy Mayor.

Ballot papers were distributed and collected.

Following the counting of votes by the Acting CEO as Returning Officer and Ms Janine May, Cr Michael McPhail was declared elected as Deputy Mayor of the Town of East Fremantle for a two year period.

**227. DECLARATION OF OFFICE BY DEPUTY MAYOR**

Cr Michael McPhail made a Declaration of Office as Deputy Mayor before Mayor O'Neill.

**228. APPLICATION FOR LEAVE OF ABSENCE**

Nil.

**229. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**229.1 Council Meeting 15 September 2015**

Cr Watkins – Cr M McPhail

That the Minutes of the Council Meeting held on 15 September be confirmed.

CARRIED 9:0

**230. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION**

**230.1 East Fremantle Croquet Club**

Mayor O'Neill advised that Cr Harrington, as Deputy Mayor, had attended the East Fremantle Croquet Club season opening on Thursday, 15 October.

**230.2 East Fremantle Tennis Club**

Mayor O'Neill advised that he had attended the East Fremantle Lawn Tennis Club season opening on Saturday, 17 October.

**230.3 Perth Freight Link Stakeholder Reference Group**

Mayor O'Neill advised that today he and the Acting CEO had attended the inaugural meeting of the above group held at Mains Roads WA.

**231. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION BY COUNCIL MEMBERS**

Nil.

**232. MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN BY COUNCIL MEMBERS**

Nil.

**233. CORRESPONDENCE**

**233.1 T114.1 Review of Municipal Heritage Inventory & Heritage List – Richmond & Town Centre**

Correspondence from B & F Adcroft seeking either the deferral of consideration of heritage listing of property 31 Fraser Street or its downgrading from a category 'B' to category 'C' rating.

**Cr Watkins – Cr Nardi**

That the letter from Mr & Mrs Adcroft be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 234.1).

CARRIED 9:0

**234. TOWN PLANNING & BUILDING**

**234.1 T114.1 Review of Municipal Heritage Inventory and Heritage List**

The letter from Mr & Mrs Adcroft, referred from Correspondence (MB Ref 233.1) was tabled.

Mr Adcroft (owner of 31 Fraser Street) addressed the meeting seeking either the deferral of consideration of heritage listing of property 31 Fraser Street or its downgrading from a category 'B' to category 'C' rating.

Mr Kerr (owner of 15 Walter Street) addressed the meeting requesting the downgrading of his property from a category 'B' to category 'C' given the minor portion of the original residence which remains.

*Cr Andrew McPhail made the following impartiality declaration in the matter of the Review of Municipal Heritage Inventory and Heritage List "As a consequence of sitting on a Board of Directors of a company that has previously engaged Brian Adcroft (who has objected to the 'B' listing of his property 31 Fraser Street) as the architect for two project developments, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".*

*Cr Michael McPhail made the following impartiality declaration in the matter of the Review of Municipal Heritage Inventory and Heritage List "As a consequence of Brian Adcroft (who has objected to the 'B' listing of his property 31 Fraser Street) providing his services as an architect to an organisation of which I am a Director, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".*

*Cr Watkins made the following impartiality declaration in the matter of the Review of Municipal Heritage Inventory and Heritage List "As a consequence of having a past business relationship with Brian Adcroft (who has objected to the 'B' listing of his property 31 Fraser Street), there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".*

#### **Mayor O'Neill – Cr Watkins**

##### **1. That:**

- (a) where appropriate the relevant Place Record Forms should be revised to reflect the physical and historic information in the owner's submissions.
- (b) 14 Walter Street, 238 Canning Highway, 224 Canning Highway, 162-172 Canning Highway, 39 Gill Street, 26 Windsor Road and 31 Fraser Street are re-classified to Management Category C and not included on the Heritage List.
- (c) 34B and 36 Alexandra Road are deleted from the Municipal Inventory since they have been subdivided from the principal heritage dwelling.
- (d) with the exception of the properties identified in (b) and (c) above and property 15 Walter Street for which an extension of time is granted to the November Council Meeting to allow elected members to review the proposed listing, all properties in the Richmond and Town Centre Precincts and 10 View Terrace and 150 Preston Point Road in the Richmond Hill Precinct shown on the attached Draft MHI Index as Management Category 'B' should be confirmed as Category 'B' on the revised MI and included on the Scheme's Heritage List pursuant with Cl 7.1.3 (d) of Town Planning Scheme No. 3.
- (e) 3 Riverside Road that was shown on the attached Draft MHI Index as Management Category 'A' should be confirmed as Category 'B' on the revised MI and included on the Scheme's Heritage List pursuant with Cl 7.1.3 (d) of Town Planning Scheme No. 3.
- (f) notification in respect of all places to be included on the Scheme's Heritage List be undertaken in accordance with the provisions of Cl.7.1.4 of Town Planning Scheme No. 3.

2. That Council at its meeting on 17 November 2015 give consideration to revoking the decision of 15 September 2015 to maintain the property 173 Petra Street as a category B on the Municipal Inventory and include this property on the Heritage List, to allow the owners of the property the opportunity to make a submission in the December round of meetings, given the property is managed by a real estate agent and the owners deny receiving notice of the proposed listing. CARRIED 9:0

Reason for Varying the Officer's Recommendation  
Council was of the opinion that:

1. properties 39 Gill Street, 26 Windsor Road and 31 Fraser Street did not reach the appropriate threshold for Category 'B' heritage listing.
2. further time was required for elected members to review the listing of 15 Walter Street and work through the revocation process (in respect to property 173 Petra Street) in a more systematic manner.

**234.2 Minutes of Town Planning & Building Committee 6 October 2015 – Receipt  
Cr Collinson - Watkins**

**That the Minutes of the Town Planning & Building Committee held on 6 October 2015 be received. CARRIED 9:0**

*The Manager Planning Services left the meeting at 7.55pm.*

**235. FINANCE**

**235.1 Monthly Financial Activity Statement for Period Ending 30 September 2015  
By Terry Paparone Chief Clerk on 9 October 2015**

**PURPOSE**

To provide timely financial information to elected members including regular review of the current forecast. This statement compares actual performance against budget estimates, and summarises operating and capital results in accordance with statutory requirements.

**BACKGROUND**

The report comprises the financial results from the month of September 2015, with commentary focusing on comparisons to the year to date budget position.

The monthly Financial Activity Statement for the period ending 30 September 2015 is appended and includes the following:

- Financial Activity Statement
- Notes to the Financial Activity Statement including schedules of investments, rating information and debts written off.
- Capital expenditure Report

**ATTACHMENT**

The attached Financial Activity Statements are prepared in accordance with the amended Local Government (Financial Management) Regulations 1996; together with supporting material to provide Council with easy to understand financial information on Council activities undertaken during the financial year.

**REPORT**

**Introduction/Comments**

The following is a summary of information on the attached financial reports:

Revised Budget Forecast

The current budget forecast for the 30<sup>th</sup> June 2016 indicates a small surplus of \$20,900 which was the original budget position adopted 20<sup>th</sup> July 2015.

Operating YTD Actuals (compared to the YTD Budget)

Operating Revenue 102%; is \$152,000 more than the YTD budget. (Favourable)

Operating Expenditure 78%; is \$499,000 less than the YTD budget. (Favourable)

After non-cash adjustments, the total operating cash forecast is \$495,000 more than the YTD budget (Favourable).

Operating Revenue is 2% Favourable with year to date budget.

The significant favourable variances within operating revenue are receipt of an earlier than anticipated grant amounting to \$50,000, being for the development of the Recreation and Community Facilities Plan; early timing difference of HACC funding \$38,000; the early raising of yacht club lease payments \$60,000.

Operating Expenditure is 22% favourable to year to date budget.

The main areas of favourable variation for operating expenditure is timing differences in Governance - Consultants Strategic Business Planning \$42,000 and Consultants – Legal/Administration \$24,000 which will be offset during the year; Community Amenities – SMRC Waste Collection \$35,000 which is mainly due to the balance of the September invoice received in the following month. Transport which includes Road and Street Maintenance, Footpath and Cycleway Maintenance, and Street Pruning have favourable balances amounting to \$66,000, which is mainly due to seasonal factors and will be offset during the year.

Other areas of favourable variance are spread across various programs as detailed in the report.

All capital activities have been set forward in the budget so that they can be easily monitored in terms of progress.

The current year's capitals works programmes are just beginning to mobilise at reporting date.

Other details can be found in the attached notes to the financial activity statement.

#### Capital Programs YTD Progress Summaries

Annual Timeline 25% of year elapsed

Land & Buildings 1% expended

Infrastructure Assets 1% expended

Plant & Equipment 0% expended

Furniture & Equipment 0% expended

Capital expenditure is \$2,038,000 less than the YTD budget (Favourable) which represents 100% of the capital programs to be completed. The report provides details on individual capital works to have progressed as at 30 September 2015.

#### **Statutory Requirements**

Local Government Act 1995 (As amended)

Local Government (Financial Management) Regulations 1996 (As amended)

#### **Relevant Council Policies**

Significant accounting policies are adopted by Council on an annual basis. These policies are used in the preparation of the statutory reports submitted to Council.

#### **Strategic Plan Implications**

Nil

#### **Financial/Resource/Budget Implications**

The September 2015 Financial Activity Statement shows variances in income and expenditure when compared with year to date draft budget estimates.

#### **Conclusion**

The attached Financial Activity Statement for the period 1 July 2015 to 30 September 2015 is presented to the Council for timely information. The current annual forecast of a



small \$20,900 surplus is confirmed by these accounts in conjunction with further analytical analysis undertaken at officer level.

**Voting Requirements**

Simple Majority

**RECOMMENDATION**

That the Financial Activity Statement for the period ending 30 September 2015 be received.

**Cr Collinson – Cr M McPhail**

**That the Financial Activity Statement for the period ending 30 September 2015 be received.** CARRIED 9:0

**235.2**

**Accounts for Payment – September 2015**

*By Les Mainwaring, Executive Manager Finance & Administration on 7 October 2015*

**PURPOSE**

To endorse the list of payments made under delegated authority for the period 1 September to 30 September 2015.

**BACKGROUND**

The Acting Chief Executive Officer has delegated authority to make payments from the Municipal and Trust Accounts in accordance with budget allocations.

The Town provides payments to suppliers by electronic funds transfer, cheque or credit card. Attached is a list of all payments made under delegated authority during the said period. **ATTACHMENT**

**REPORT**

**Statutory Requirements**

Local Government (Financial Management) Regulations 1996 – Regulation 13

**Comments/Discussion**

The List of Accounts paid for the period beginning 1 September to 30 September 2015 requires endorsement by the Council.

**RECOMMENDATION**

That the List of Accounts paid for the period beginning 1 September to 30 September 2015 be received, as per the following summary table:

| <b>SEPTEMBER 2015</b> |                                 |                     |
|-----------------------|---------------------------------|---------------------|
| <b>Voucher Nos</b>    | <b>Account</b>                  | <b>Amount</b>       |
| 4921 – 4923           | Municipal (Cheques)             | \$437.41            |
| EFT 21410 – EFT 21498 | Electronic Transfer Funds       | \$625,378.90        |
| Payroll               | Electronic Transfer Funds       | \$196,990.79        |
| Superannuation        | Electronic Transfer Funds       | 47,998.81           |
| Credit Card           | CEO                             | 4,599.75            |
|                       | <b>Municipal Total Payments</b> | <b>\$875,405.66</b> |

**Cr White – Cr Nardi**

**That the List of Accounts paid for the period beginning 1 September to 30 September 2015 be received.** CARRIED 9:0

**235.3** ***Southern Metropolitan Regional Council – Early Collected Carbon Charges***  
*By Les Mainwaring Executive Manager Finance & Administration on 06 October 2015*

**PURPOSE**

To request the City of Rockingham to return any carbon tax collected from the disposal of waste received from the Southern Metropolitan Regional Council (SMRC).

**BACKGROUND**

The introduction of The Clean Energy Act 2011 resulted in some landfill operators increasing gate fees to include a carbon tax component that would be used to offset the liability of future carbon tax claims. The City of Rockingham increased landfill gate fees from 2012-13 to include a component for carbon tax.

The repeal of the Clean Energy Act resulted in extinguishment of all carbon tax liabilities associated with post 1 July 2014 emissions from waste deposited in 2012-13 and 2013-14. During this period the City of Rockingham had collected funds for the liability of the carbon tax from the SMRC and others, a liability that no longer existed with repeal of the Clean Energy Act.

Given the recent release of the Australian Local Government Association and Australian Landfill Operators Protocol, together with statements from the Australian Government and the Australian Competition and Consumers Commission, there was an expectation that landfill operators who collected monies against expected future carbon tax liabilities, should not profit from the repeal of the Clean Energy Act.

As a result the SMRC commenced correspondence with the City of Rockingham in October 2014, with sufficient records to identify the amount of “carbon tax” collected from each Council in each year, and sought recovery of the funds on behalf of member councils. The City of Rockingham have informed the SMRC that they are under no statutory obligation to refund monies collected in relation to the carbon tax and therefore would not be doing so.

**COMMENT**

Whilst the City of Rockingham has responded to the SMRC that it has no statutory obligation to fellow south west group councils, the Voluntary Waste Industry Protocol (VWIP) which is intended to encourage landfill operators to act in good faith.

With this in mind, and where an exchange of letters has not been effective, it may be that a personal approach would give the flexibility to discover why the community of Rockingham should wish to receive funds in good faith from surrounding communities, then not return same if they were collected without need. This would be contrary to the intent of the VWIP where early collected carbon charges should be returned for consumer benefit.

The VWIP does allow the landfill operator to deduct up to 10% of early collected carbon charges to cover administration costs, but does make the refund of carbon charges to local government customers for kerbside collected waste a priority. Once agreement can be reached between each customer and the landfill owner, then it is suggested that refunds should follow within 60 days. **ATTACHMENT**

**Statutory Requirements**

Local Government Act 1995 (As amended) s6.17 Setting level of fees and charges.

**Relevant Council Policies**

Nil

**Strategic Plan Implications**

Nil

**Financial/Resource/Budget Implications**

The total collected from member Councils of the SMRC is \$378,764.72, of which \$13,164.95 relates to the Town.

**Conclusion**

Council may not in a position to demand the return of the funds however it would be appropriate to seek clarification about the City of Rockingham's intention to comply with the VWIP.

**Voting Requirements**

Simple Majority

**RECOMMENDATION**

That the Mayor and Chief Executive Officer seek a meeting with the City of Rockingham to clarify its intention about complying with the Voluntary Waste Industry Protocol.

The Acting CEO referred to the email he had circulated to elected members yesterday advising that the City of Rockingham had resolved on 27 September to refund the carbon tax collected from the disposal of waste received from the Southern Metropolitan Regional Council (SMRC) and suggesting that this report was now redundant.

**Cr M McPhail – Cr Collinson**

That Council:

1. **notes the report and receipt of the City of Rockingham's intention to comply with the Voluntary Waste Industry Protocol.**
2. **provides delegation for the Mayor and Acting CEO to liaise with the City of Rockingham on its behalf should it not be forthcoming.** CARRIED 9:0

Reason for Varying Officer's Recommendation

Due to receipt of advice from City of Rockingham indicating its intention to comply with the Voluntary Waste Industry Protocol.

**236. HEALTH & GENERAL PURPOSES****236.1 Graffiti Removal Policy and Procedure**

*Author – Shelley Cocks, PEHO, 12 October 2015*

*Reporting Officer - Gary Clark, Chief Executive Officer*

**PURPOSE**

To adopt a policy to set out the criteria for the removal of graffiti within the Town of East Fremantle and to adopt a procedure to inform graffiti removal on Council assets, State Government assets and on private property.

**BACKGROUND**

Council is reviewing their policies and it was found that there was not a formal policy to facilitate the removal of graffiti within the Town. Following a review of a number of policies from various local governments, the attached draft policy and procedure has been prepared for Council's consideration.

**ATTACHMENT**

**COMMENT**

Graffiti removal policies from a number of neighbouring councils were reviewed, in part to determine the extent of council involvement in removal of graffiti from private property and whether this was done for free or fee. There were a range of approaches summarised as follows:

The City of Melville offers a rapid removal service on both public and private property for graffiti that is visible to the public. There is no charge for graffiti removal on private property.

The City of Fremantle removes graffiti that is visible from a public road or public open space. A waiver is required.

The City of Cockburn removes graffiti from private property where the graffiti is clearly visible from a public area and where access is provided. A waiver is required. The cost of such graffiti removal will not exceed \$400 on a single occasion, and a maximum of \$1200 in any one financial year. Should the cost exceed these amounts, the owner will be required to contribute the outstanding amount. Graffiti must be reported to the Police.

The City of Rockingham removes graffiti from council property and from private property where the private property abuts Council Reserves or graffiti is visible from the road. Graffiti will be removed once only from each property, at the City's cost. Graffiti must be reported to the Police.

The Town of Kwinana removes graffiti from council property and private property at no cost where the graffiti is reported to the Police and a waiver has been completed.

An invitation was extended to elected members at the last Concept Forum to provide feedback on the draft policy. At the close of the comment period, Cr Martin provided feedback in an email to all Councillors.

**ATTACHMENT**

In response to the feedback raised by Cr Martin:

1. A new graffiti waiver form will be designed which will contain the costs associated with graffiti removal from private property.
2. The removal of graffiti from privately owned property which "adjoins a public walkway or thoroughfare" was written into the policy as experience indicates that this is the most commonly applied graffiti which is visible from the public domain.
3. No legal advice has been sought into the Town reserving the right to remove offensive or unsightly graffiti from private property.
4. The cost of graffiti removal is cost plus 25% administration cost.
5. State government assets are not covered by the policy.

**Statutory Requirements**

N/A

**Relevant Council Policies**

There is no existing Council policy relating to this matter.

**Strategic Plan Implications**

N/A

**Financial/Resource/Budget Implications**

The 2014/15 budget was exceeded by approximately 30% following an increase in the amount of graffiti removal requests from private property. The provision of graffiti removal services from private property will now be on a cost recovery basis comprising cost plus 25% administration fee. The implication of this will be that Council budget will remain balanced.

**Conclusion**

The draft policy and procedure will ensure that clear guidelines exist for the removal of graffiti within the town of East Fremantle

**Voting Requirements**

Policy - Simple majority

**RECOMMENDATION**

That Council adopt the attached policy and procedure for the removal of graffiti.

**Simple majority resolution required.**



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## MINUTES

*Cr Collinson – Cr Harrington*

*That Council adopt the attached policy and procedure for the removal of graffiti.*

Amendment

**Cr M McPhail – Cr Nardi**

**That the following become part 2 of the motion:**

**2. the Acting CEO be requested to propose a minor amendment that:**

**(a) would allow the policy to permit graffiti of artistic merit**

**(b) more appropriately reflects the cost recovery intent of the Policy.**

CARRIED 9:0

The substantive motion was put.

**Cr Collinson – Cr Harrington**

**That:**

**1. Council adopt the attached policy and procedure for the removal of graffiti**

**2. the Acting CEO be requested to propose a minor amendment that:**

**(a) would allow the policy to permit graffiti of artistic merit**

**(b) more appropriately reflects the cost recovery intent of the Policy.**

CARRIED 9:0

**237. REPORTS OF ELECTED MEMBERS**

Nil.

**238. ADJOURNMENT**

**Cr A McPhail – Cr Nardi**

**That the meeting be adjourned for a short break at 8.23pm.**

CARRIED 9:0

**239. RESUMPTION**

**Cr M McPhail – Cr Nicholson**

**That the meeting be resumed at 8.30pm with all those present prior to the adjournment, in attendance.**

CARRIED 9:0

**240. REPORTS OF ACTING CHIEF EXECUTIVE OFFICER**

**240.1 Election of Committees & Delegates to External Committees and Other Bodies**

*By Gary Clark, Acting Chief Executive Officer, on 13 October 2015*

**PURPOSE**

The purpose of this report is to facilitate, following the elections held on Saturday 17 October 2015, the:

- appointment of members to Council's Standing and other Committees; and
- appointment of delegates to represent Council on external Committees and other bodies.

**BACKGROUND**

Following the election held on Saturday, 17 October 2015, Council is required to appoint members to its Standing Committees. Under section 5.11 of the Act, all previous appointments expired on election day. Although not specifically required under this legislation, it is considered it would be appropriate, at this time, to also make new appointments (or reappointments) of delegates to the Audit and Events Committee and the various external committees and bodies which elected members have previously been appointed to.

**REPORT**

Following is advice on Council's Standing Committees:

- Town Planning & Building Committee (Private Domain) – Meets first 1<sup>st</sup> Tuesday of month. Committee currently has a conditional delegated authority to determine all

applications for planning approval or advice to referral agencies and other Planning Authorities not otherwise included within the current delegations to the Chief Executive Officer.

- Finance Committee – Meets three/four times per year usually on a Wednesday evening).
- Works & Reserves Committee – meets as required.
- Health & General Purposes Committee – meets as required.  
Under Council's existing Standing Orders these Committees need to be appointed, although meetings haven't been convened in recent times. Matters relating to these Committees have been referred directly to the Council

Note that appointment to membership of a Standing Committee requires an absolute majority vote.

The following are not Standing Committees however require elected member appointments:

- Audit Committee  
*Members of the Finance Committee are generally the same members appointed to the Audit Committee.*
- East Fremantle Events Committee
- Art Acquisition Panel

Council recently appointed an Employment Committee, comprising of the Mayor, Deputy Mayor (Cr Harrington), Cr McPhail and Cr Collinson, to consider the recruitment of a CEO. To allow continuity of this process, it is not considered beneficial to change the membership of this Committee, although this may be dependent upon the election of a Deputy Mayor.

Following is a list of external Committees and other bodies which currently entail Council's representation:

- Local Government Association (South Metropolitan Zone) (3 delegates)
- Fremantle City Library Advisory Committee (1 delegate + deputy)
- Glyde-In Community Group (1 delegate + deputy)
- Southern Metropolitan Regional Council (1 delegate)
- Development Assessment Panel (2 delegates will be required)
- South West Corridor Development & Employment Foundation (1 delegate + deputy)
- South West Reference Group (1 delegate + deputy)
- Fremantle Ports Inner Harbour Community Liaison Group (1 delegate + deputy)

Details, including meeting days, frequency etc are set out in the attached.

#### ATTACHMENT

#### Voting

Absolute majority for appointment to Standing Committees

Simple majority for all other appointments.

#### RECOMMENDATION

That elected members:

- appoint members to Council's Standing Committees, the Audit Committee, Art Acquisition Panel and the East Fremantle Events Committee
- resolve that all previous appointments to the external committees and other bodies referred to in this report, have expired and make new appointments to those committees and other bodies.

The Mayor sought nominations for membership of Council's Standing Committees.

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- (A) Mayor O'Neill – Cr Harrington  
That Mayor O'Neill and Crs M McPhail, Nicholson, Nardi, White & Collinson be appointed to the Town Planning & Building Committee for a two year period.  
CARRIED 9:0  
ABSOLUTE MAJORITY
- (B) Cr Nardi – Cr Harrington  
That Mayor O'Neill and Crs M McPhail, Nicholson, A McPhail, Watkins and White be appointed to the Finance Committee for a two year period.  
CARRIED 9:0  
ABSOLUTE MAJORITY
- (C) Cr Nardi – Cr Harrington  
That Mayor O'Neill and Crs White, Watkins, Collinson, Harrington, Nardi and A McPhail, be appointed to the Works & Reserves Committee for a two year period.  
CARRIED 9:0  
ABSOLUTE MAJORITY
- (D) Cr White – Cr Watkins  
That Mayor O'Neill and Crs Collinson, Harrington, Nardi and M McPhail, be appointed to the Health & General Purposes Committee for a two year period  
CARRIED 9:0  
ABSOLUTE MAJORITY

The Mayor sought nominations for membership of the Events Committee, Audit Committee and Art Acquisition Panel.

- (E) Cr M McPhail – Cr Nicholson  
That:
- (i) Crs Collinson, Harrington, Nardi and White be appointed to the Events Committee.
  - (ii) the Audit Committee comprise of all members of the Finance Committee ie Mayor O'Neill and Crs M McPhail, Nicholson, A McPhail, Watkins and White.
  - (iii) Mayor O'Neill and Crs Watkins, Collinson, Harrington and Nardi be appointed to the Art Acquisition Panel. CARRIED 9:0

Mayor O'Neill called for nominations as Council's representative on a number of external Committees and bodies.

- (F) Cr M McPhail – Cr A McPhail  
That:
- (i) Crs M McPhail, Collinson and Nardi be appointed Council's representatives on the WALGA South Metropolitan Zone Committee with Cr Watkins being appointed as the deputy.
  - (ii) Cr Watkins be appointed as Council's representative on the Fremantle City Library Advisory Committee with Cr A McPhail appointed as the deputy.
  - (iii) Cr Collinson be appointed as Council's representative on the Glyde-In Community Group with Cr Nardi appointed as the deputy.
  - (iv) Crs Collinson and M McPhail be appointed as Council's DAP members with Crs Nardi and White appointed as the Alternate (deputy) DAP members.
  - (v) Cr White be appointed as Council's representative on the South West Reference Group with Cr Watkins appointed as the deputy.
  - (vi) no representative be provided on the South West Corridor Development and Employment Foundation
  - (vii) Cr Harrington be appointed as Council's representative on the Fremantle Ports Inner Harbour Community Liaison Group with Cr A McPhail as the deputy. CARRIED 9:0

Mayor O'Neill called for nominations as Council's representative on the Southern Metropolitan Regional Council.

Crs Collinson and McPhail nominated for the position.

Both candidates addressed elected members in support of their nomination.

Ballot papers were distributed and collected.

Following the counting of votes by the Acting CEO as Returning Officer and Ms Janine May, Cr McPhail was declared elected as Council's representative on the Southern Metropolitan Regional Council for a two year period.

**240.2 Review of Code of Conduct for Council Members, Committee Members and Staff Policy**

*Author – Janine May, PA to the CEO, 9 October 2015*

*Reporting Officer - Gary Clark, Chief Executive Officer*

**PURPOSE**

To review queries raised by elected members as part of the Policy's adoption.

**BACKGROUND**

Council at its meeting held on the 15 September 2015 reviewed and adopted its Code of Conduct for Council Members, Committee Members and Staff Policy subject to:

- review of Clause 3.4(a) & (b) in reference to elected members
- Clause 4.6(b)(iii) dot point three being clarified.

**COMMENT**

Although the revised policy submitted to Council last month was based on WALGA's Model Code of Conduct, it was agreed that the reference to Council members should be included in the definition of "notifiable gift" and "prohibited gift" at the commencement of 3.4 and also in parts (a) and (b) of that section.

In a similar vein, it is considered the reference to Council members should also be included in section 2.3 Disclosure of Interest parts (a) and (e).

The Policy with these additions denoted in red is attached.

**ATTACHMENT**

Following further review of Clause 4.6(b)(iii) dot point three, it is considered the intent is clear and therefore does not require further clarification.

**Statutory Requirements**

Local Government Act 1995 s.5.103 Codes of Conduct

Local Government (Administration) Regulations 1996 (Regs 34B and 34C)

Local Government (Rules of Conduct) Regulations 2007

**Relevant Council Policies**

Policy 1.1.2 Code of Conduct for Council Members, Committee Members and Staff

**Strategic Plan Implications**

N/A

**Financial/Resource/Budget Implications**

N/A

**Conclusion**

The inclusion of the reference to elected members in the section relating to gifts is recommended.

**Voting Requirements**

Simple Majority



**RECOMMENDATION**

That Council adopt the amended Code of Conduct for Council Members, Committee Members and Staff Policy attached to this report.

**Cr Nardi - Cr White**

**That Council adopt the amended Code of Conduct for Council Members, Committee Members and Staff Policy attached to this report. CARRIED 9:0**

**240.3**

***Legal Representation for Council Members and Employees Policy & Delegation***

*Author – Janine May, PA to the CEO, 9 October 2015*

*Reporting Officer - Gary Clark, Chief Executive Officer*

**PURPOSE**

To further assess this draft policy in respect to queries raised by elected members.

**BACKGROUND**

Council at its meeting held on 15 September 2015 resolved that the policy and delegation be held over pending clarification of:

- the intent of clauses 2.1(c) and 2.2.
- clause 3.7 where the CEO is the applicant and the associated delegation in this case.

For the benefit of new elected members, the previous report is reprinted below:

**PURPOSE**

*To adopt a policy which provides legal and financial protection for elected members and staff in carrying out their legislative functions and responsibilities in a correct and appropriate manner.*

**BACKGROUND**

*This is a risk that elected members or staff become joined in a legal action simply because they are performing the role that they are elected or employed to perform.*

*It is appropriate that the local government provide legal and financial protection where elected members and staff are performing their functions in an appropriate manner.*

*The Department of Local Government & Communities provides information regarding this matter in its Operational Guidelines No 14. The attached draft policy is based on the model policy contained in these guidelines.*

**ATTACHMENT**

**COMMENT**

*At the August Council Concept Forum the Acting CEO raised the matter of the Town taking action where a staff member was defamed. Clause 2.2 of the attached draft policy specifically excludes the reimbursement of costs where an employee or elected member institutes defamation proceedings.*

*The Acting CEO advises that, in the case of an employee, there is a risk that defamatory remarks can be made that have the potential to adversely affect the health and wellbeing of the employee. This would become an occupational health and safety matter and the CEO would be obliged to act to protect the employee. An OH&S policy will be drafted to address this risk and will be separate to the policy under consideration.*

*Following an invitation at this Forum for elected members to provide feedback on the draft policy, no comments have been received.*

*Section 6 of the draft Policy refers to a delegation to the CEO where a delay in the approval of an application would be detrimental to the legal rights of the applicant. This delegation limits costs to a maximum of \$10,000. Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs. The delegation relating to this authority is attached.*

**ATTACHMENT**

**Statutory Requirements**

Local Government Act 1995

**Relevant Council Policies**

There is no existing Council policy relating to this matter.

**Strategic Plan Implications**

N/A

**Financial/Resource/Budget Implications**

There are no foreseeable implications. Costs will be incurred if a matter arises.

**Conclusion**

The draft policy and delegation will ensure elected members and staff can perform their statutory duties with appropriate legal protection.

**Voting Requirements**

Policy - Simple majority

Delegation – Absolute majority

**RECOMMENDATION 1**

That Council adopt the attached Legal Representation for Council Members and Employees Policy. **Simple majority resolution required**

**RECOMMENDATION 2**

That Council adopt the attached delegation D/GOV.04 to the CEO to authorise applications under the Legal Representation for Council Members and Employees Policy **Absolute majority resolution required**

**COMMENT**

Clause 2.1(c) describes circumstances where Council may approve the commencement and funding of an action where adverse comments have been made about a Councillor or an employee.

Clause 2.2 excludes the funding of defamation actions instituted by a Councillor or an employee except in exceptional circumstances.

Clause 3.7 requires that an application must be accompanied by a report to Council from the CEO. The report must be written by another employee if the CEO is the applicant.

As the draft is based on a Department of Local Government model policy used by numerous other local governments, the wording of the document is considered appropriate.

**Statutory Requirements**

Local Government Act 1995

**Relevant Council Policies**

There is no existing Council policy relating to this matter.

**Strategic Plan Implications**

N/A

**Financial/Resource/Budget Implications**

There are no foreseeable implications. Costs will be incurred if a matter arises and accommodated by a budget amendment if the budget is exceeded.

**Conclusion**

The draft policy and delegation will ensure elected members and staff can perform their statutory duties with appropriate legal protection.

**Voting Requirements**

Policy - Simple majority

Delegation – Absolute majority

**RECOMMENDATION 1**

That Council adopt the attached Legal Representation for Council Members and Employees Policy. **Simple majority resolution required**

**RECOMMENDATION 2**

That Council adopt the attached delegation D/GOV.04 to the CEO to authorise applications under the Legal Representation for Council Members and Employees Policy **Absolute majority resolution required**

**Cr Collinson – Cr McPhail**

That Council adopt the attached Legal Representation for Council Members and Employees Policy. CARRIED 9:0

**Cr M McPhail – Cr Nardi**

That Council adopt the attached delegation D/GOV.04 to the CEO to authorise applications under the Legal Representation for Council Members and Employees Policy. CARRIED 9:0

ABSOLUTE MAJORITY

- 240.4** **WALGA Discussion Paper – Policy Options to Increase Elected Member Training Participation**  
*Gary Clark, Chief Executive Officer on 22 September 2015*

**PURPOSE**

To provide feedback to WALGA regarding policy options to increase elected member training participation.

**BACKGROUND**

Within the discussion paper, WALGA is examining the following three tiers of currently available training, based on the nationally recognised Local Government Training Package and designed specifically for elected members:

- i. Introductory training, which aims to provide a fundamental understanding of the role of Local Government;
- ii. Foundation training, which addresses the introductory skills required to operate effectively in a Local Government environment; and,
- iii. Advanced training, which further enhances the skills required of elected members.

Council induction programs are also discussed as complementary to the formal elected member training framework.

In addition, three mechanisms which increase accessibility to formal training are being examined: recognition of prior learning, the ability for assessments to be modified to suit individual needs and modes of content delivery.

Arising out of the existing training framework for elected members, the following six policy options are explored in the discussion paper:

1. Enhance the desirability of training offerings;
2. Delivery of best practice council induction programs;
3. Require councils to adopt a training policy;
4. Require candidates to attend training prior to nominating for election;
5. Incentivise training through the remuneration framework; and,
6. Mandate training for newly elected members.

**COMMENT**

Following an invitation to elected members to provide comment on the questions posed in the Discussion Paper, these responses are summarised as follows:

|   |
|---|
| <p><b>1. Best Practice Induction Programs</b><br/> <b>Does Council support Local Governments adopting and delivering a structured and thorough Council induction program? If so, should legislation be changed for this to be a requirement, or should it remain voluntary?</b></p>   |
| <i>Yes Local Governments should run structured and thorough induction program. I support legislation to ensure this.</i>  |
| <i>I support this, and think it should be legislated.</i>   |
| <i>It should remain voluntary.</i>  |
| <i>Don't support any changes</i>  |
| <i>I support Local Governments adopting and delivering a structured and thorough induction program. It should remain voluntary but a policy be adopted by Local Governments and program established.</i>  |
| <p><b>2. Training and Development Policy</b><br/> <b>Does Council support legislative amendments to require all Councils to review and adopt an Elected Member Training and Development Policy following every biennial election?</b></p>   |
| <i>I support the requirement to review and adopt following biennial elections.</i>  |
| <i>I agree with this as well.</i>   |
| <i>No. Maintain the status quo. One could assume that an elected member would undertake training on their own volition. Not necessary to have yet another policy.</i>   |
| <i>Don't support any changes.</i>   |
| <i>Yes, I support the above.</i>  |
| <p><b>3. Candidate Requirements</b><br/> <b>Does Council support legislative amendment to require candidates to attend an information session or complete an equivalent online information session prior to nominating for election?</b></p>  |
| <i>I do not support having to attend before nominating.</i>   |
| <i>I think candidates should be required to do one of the above. However, I think it would be ideal if these were prepared by the relevant local governments so that information is politically relevant. Hopefully this will lead to better informed, and more relevant campaigns.</i>   |
| <i>No. Post the information online and draw the candidates attention to it.</i>   |
| <i>Does not support any changes.</i>  |
| <i>Yes, I support the above.</i>  |
| <p><b>4. Incentivised Training</b><br/> <b>Does Council support legislative amendments to enable Elected Members to be paid additional allowances commensurate with the level of training undertaken? If so, how should the fees and allowances framework be structured? i.e. should Elected Members be paid a specified annual amount, a percentage bonus or using some other method?</b></p>          |
| <i>I do not support additional allowances. It should be compulsory and not performance based on training.</i>   |
| <i>I am uncertain about this. To be honest, I don't rate the WALGA courses I have been on so far as very stimulating or informative (so maybe we should be paid!). I think if Elected Members are to be paid, they should be tested to ensure knowledge retention. This reduces risk of people attending just to obtain a financial incentive, without any intention of improving their performance</i> |
| <i>No. The ratepayers should not be expected to pay elected members for an education. Payment for the course is ample – and that could be questionable.</i>   |
| <i>Does not support any changes.</i>  |
| <i>I do not support legislative amendments to enable Elected Members to be paid additional allowances.</i>  |
| <i>Local Governments usually pay for the training for Councillors to upgrade their skills in order to carry out their role – I feel that that is reward enough.</i>   |
| <p><b>5. Mandatory Training</b><br/> <b>Does Council support legislative amendment to require Elected Members to be required to undertake foundation training (such as the Elected Member Skill Set or equivalent)?</b></p>   |

|  |
|--|
| <b>a. Should mandatory training be applied to all Elected Members or only to newly elected Elected Members?</b>  |
| <i>Mandatory for newly elected and then at least once per election. In other words at least once per 4 year term.</i>  |
| <i>Should definitely be applied for newly elected Councillors. If Elected Members should be required further training, WALGA should give consideration to developing a training structure with a 'hierarchy' of difficulty so that it is actually challenging and not a waste of time.</i> |
| <i>No to mandatory training period.</i>  |
| <i>Does not support any changes.</i>   |
| <i>To newly elected members.</i>   |
| <b>b. For newly elected Elected Members, what is the appropriate timeframe within which training should be completed?</b>  |
| <i>Time frame 3 within months</i>  |
| <i>3 months. This covers the Christmas holiday period when things might be a little 'less busy' for people, or can do online training whilst on holidays. If training is to be required, it follows that it should be provided on evenings and/or weekends so that it is accessible.</i>   |
| <i>Don't support any changes.</i>  |
| <i>18 months</i>   |
| <b>c. What is the appropriate penalty for non-completion of the required training?</b>   |
| <i>Mandated so no penalty. I think Councillors should be encouraged to train not punished.</i>   |
| <i>Withholding or penalisation of allowance. Requirement to publicly name the Councillor in the local newspaper and Council communications. If hasn't been done by next election, they should be forced to resign.</i>   |
| <i>Don't support any changes.</i>  |
| <i>If the Council paid training is not completed within the first 18 months on Council they need to complete it at their own cost or a fine of \$250.00</i>  |

Local Government are required to provide their feedback by 13 November. The policy framework recommendations that stem from this consultation process will be the subject of thorough Zone and State Council consideration during a subsequent Zone and State Council meeting process.

The level of training and understanding of roles by elected members across the state has been identified as a problem. The State Government may legislate to ensure Councillors are equipped to undertake their role unless there is an improvement in the current level of training.

#### **Statutory Requirements**

N/A

#### **Relevant Council Policies**

N/A

#### **Strategic Plan Implications**

N/A

#### **Financial/Resource/Budget Implications**

N/A

#### **Conclusion**

There is no consensus amongst the views of the five elected members that responded so it is proposed that the individual responses be submitted.

#### **Voting Requirements**

Simple Majority

**RECOMMENDATION**

That the individual responses of elected members be submitted to the Western Australian Local Government Association to inform the policy development.

**Cr M McPhail – Cr Watkins**

**That the individual responses of elected members be submitted to the Western Australian Local Government Association to inform the policy development.**

CARRIED 9:0

**241. CONFIDENTIAL BUSINESS**

**Cr Nardi – Cr A McPhail**

**That this part of the meeting be closed to members of the public in accordance with Section 5.23(2)(c) & (e) of the Local Government Act 1995, at 9.15pm.**

CARRIED 9:0

**241.1 *Recreation and Community Facilities Plan 01-15/16 – Endorsement of Appointment of Preferred Tender***

A confidential report and subsequent addendum prepared by the Acting CEO were considered. **CONFIDENTIAL ATTACHMENT**

**Cr M McPhail – Cr White**

**That Council endorse the awarding of the Recreation and Community Facilities Plan tender to SGL Consulting Group.**

CARRIED 9:0

**241.2 *Southern Metropolitan Regional Council – Project Participants Agreement***

A confidential report prepared by the Executive Manager Finance & Administration was considered. **CONFIDENTIAL ATTACHMENT**

**Mayor O'Neill – Cr Collinson**

**That Council:**

1. **does not support the request from City of Cockburn for amendment of the Project Participants Agreement**
2. **requests the Chief Executive Officer to inform the SMRC that Council does not support the request from the City of Cockburn.**

CARRIED 9:0

**242. NOTICES OF MOTION BY ELECTED MEMBERS FOR CONSIDERATION AT THE FOLLOWING MEETING**

Nil.

**243. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**

**243.1 *Employment Committee***

**Cr M McPhail – Cr A McPhail**

**That a motion regarding Cr Harrington's membership on the Employment Committee be considered a matter of an urgent nature.**

CARRIED 8:1

Cr M McPhail proposed Cr Harrington be nominated as a member to the Employment Committee, for which Cr Harrington agreed.

**Cr M McPhail – Cr Nardi**

**That Cr Harrington be appointed to the Employment Committee.**

CARRIED 9:0

**244. CLOSURE OF MEETING**

There being no further business, the meeting closed at 9:35pm



*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **20 October 2015**, Minute Book reference **219.** to **244.** were confirmed at the meeting of the Council on*

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\_\_\_\_\_  
*Presiding Member*