



Council Meeting 17 March 2015

MINUTES

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 17 MARCH 2015 COMMENCING AT 6.31PM.

INDEX

- 59. **DECLARATION OF OPENING OF MEETING**
 - 59.1 *Present*
- 60. **ACKNOWLEDGEMENT OF COUNTRY**
- 61. **WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF**
- 62. **RECORD OF APPROVED LEAVE OF ABSENCE**
- 63. **RECORD OF APOLOGIES**
- 64. **PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS**
- 65. **PUBLIC QUESTION TIME**
- 66. **APPLICATION FOR LEAVE OF ABSENCE**
- 67. **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**
- 67. **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**
 - 67.1 *Special Council Meeting 16 December 2014*
 - 67.2 *Council Meeting 17 February 2015*
 - 67.3 *Special Council Meeting 10 March 2015*
- 68. **ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION**
- 69. **QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION BY COUNCIL MEMBERS**
- 70. **MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN BY COUNCIL MEMBERS**
- 71. **CORRESPONDENCE**
- 72. **TOWN PLANNING & BUILDING COMMITTEE**
 - 72.1 *Matter referred from Town Planning & Building Committee Meeting – 3 March 2015:*
 - (A) *Habgood Street No 14 (Lot 5012)*
Applicant: Westmade Homes
Owner: T & J Scotchbrook
Application No. 175/2014
 - (B) *Proposed Amendment – Residential Design Guidelines – Roof Material*



17 March 2015

MINUTES

- (C) *Review of Municipal Heritage Inventory and Heritage List*
- (D) *Review of Town Planning Scheme No 3 – Scheme Amendment 10*
- 72.2 *Delegated Authority – Town Planning & Building Committee*
- 73. FINANCE**
- 73.1 *Audit Committee Meeting – 25 February 2015*
 - (A) *A9.1 2014 Compliance Audit Return*
- 73.2 *Finance Committee Meeting – 25 February 2015*
 - (A) *F9.1 2014/2015 Half Year Budget Review*
- 73.3 *Monthly Financial Activity Statement for Period Ending 28 February 2015*
- 73.4 *Accounts for Payment – February 2015*
- 74. REPORTS OF ELECTED MEMBERS**
- 74.1 *Future Freo Project*
- 74.2 *SMRC*
- 74.3 *Royal George Hotel*
- 74.4 *Fremantle Ports*
- 75. ADJOURNMENT**
- 76. RESUMPTION**
- 77. REPORTS OF ACTING CHIEF EXECUTIVE OFFICER**
- 77.1 *Extraordinary Councillor Vacancy Expiring 2017 – Richmond Ward*
- 77.2 *2013/2014 Electors' Meeting*
- 78. CONFIDENTIAL BUSINESS**
- 79. NOTICES OF MOTION BY ELECTED MEMBERS FOR CONSIDERATION AT THE FOLLOWING MEETING**
- 79.1 *Cr Collinson – Climate Change Declaration*
- 80. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**
- 80.1 *Cr Rico – Acknowledgement of Former CEO*
- 81. CLOSURE OF MEETING**

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBER, ON TUESDAY, 17 MARCH 2015 COMMENCING AT 6.31PM.

59. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

59.1 Present

Mayor J O'Neill	Presiding Member
Cr J Amor	
Cr C Collinson	
Cr J Harrington	
Cr S Martin	
Cr M McPhail	
Cr M Rico	
Cr A Watkins	
Mr G Clark	Acting Chief Executive Officer
Mr L Mainwaring	Executive Manager Finance & Administration (to 7.03pm)
Mr J Douglas	Manager Planning Services (to 6.54pm)
Ms J May	Minute Secretary

60. 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."

61. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF

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

62. RECORD OF APPROVED LEAVE OF ABSENCE

Nil.

63. RECORD OF APOLOGIES

Nil.

64. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

65. PUBLIC QUESTION TIME

65.1 Response to Questions Raised by A Smith, 54 Dalgety Street at the Council Meeting of 17 February 2015
(Refer MB Ref 68.1).

66. APPLICATION FOR LEAVE OF ABSENCE

66.1 Cr Watkins

Cr Watkins sought leave of absence for the Council Meetings on 19 May and 16 June 2015.

Cr McPhail – Cr Collinson

That Leave of Absence be granted to Cr Watkins for the Council Meetings scheduled for 19 May and 16 June 2015.

CARRIED

67. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**67.1 Special Council Meeting 16 December 2014**

Cr Rico – Cr Collinson

That the Minutes of the Special Council Meeting held on 16 December 2014 be confirmed with the following additional comment being inserted after the resolution to MB Ref 315.1 on page 4:

“Reason for not supporting officer’s recommendation

Given Cr Martin’s knowledge of the reform process as a Town of East Fremantle LIC representative, it was considered she had the necessary experience to serve in this role.”

CARRIED**67.2 Council Meeting 17 February 2015**

Cr McPhail – Cr Watkins

That the Minutes of the Council Meeting held on 17 February 2015 be confirmed.

CARRIED**67.3 Special Council Meeting 10 March 2015**

Mayor O’Neill – Cr McPhail

That the Minutes of the Special Council Meeting held on 10 March 2015 be confirmed.

CARRIED**68. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION****68.1 Response to Public Questions submitted by Andrew Smith to the Council Meeting on 17 February 2015**

Mayor O’Neill advised that as Mr Smith was not in attendance at tonight’s meeting, he would not read out his responses to the Mr Smith’s questions, however they would appear as read in the minutes.

Amalgamation

1. *Given the eerie and disapproving silence of the East Fremantle residents at the poll declaration in the Town Hall on Saturday February 7 2015 due specifically to the noted absence of the mayor and all elected persons of the Town, while the deputy mayor of Fremantle, one Fremantle councillor and two City of Cockburn councillors were in attendance, will this mayor and council provide East Fremantle residents with an unequivocal and categorical assurance the overwhelming results of the referendum will now be fully respected publicly and privately by all elected persons?*

I acknowledged the result in a media statement on the 12th February and indicated that Council was keen to move on and continue to deliver services to the residents and ratepayers in the Town.

Council respect the result and will continue to work on implementing the priorities in the Strategic Community Plan and Corporate Business Plan to make the Town an even better place to live and work.

While Council had agreed to engage with the City of Fremantle in the amalgamation process rather than actively oppose it, we were equally supportive of the democratic process and actively provided the opportunity for the community to participate in a poll.

The community’s position is clear and we are eager to put the Poll behind us and focus on the future of the Town.

I am also keen to acknowledge the extra workload placed on the Town’s staff and thanked them all for their efforts and professionalism over the past months.

2. *Has this council formally thanked the WA Electoral Commission and its staff, as is customary, for the way (sic) satisfactory way it conducted the poll, given this was not done when the poll was declared?*

Given that this is the second time that the WA Electoral Commission has conducted an election or Poll for the Town I was unaware of any custom being established. Our staff has a very good working relationship with the Commission staff. The Commission were contracted to provide the service and as is customary in any business relationship we will show our gratitude by paying their invoice.

3. *Do the mayor and council accept the overwhelming results of the referendum as a very strong and unequivocal vote of confidence by the residents in the history and the future of our 107-year-old Town?*

Please refer to the answer to question one.

4. *Do the mayor and councillors who supported the amalgamation position, publicly or privately, now accept the overwhelming response of East Fremantle voters as a total repudiation of, and a vote of no confidence in their position?*

No.

5. *As the mayor and councillors who supported the pro-amalgamation position were clearly so out of touch with local public opinion, will they now resign forthwith so residents committed to the future of our Town can run for elected office to fully protect and actively work for the Town's future?*

No.

6. *Do the mayor and councillors accept – as most anti-amalgamation campaigners do – that the overwhelming results of the referendum were a vote of no confidence in the Fremantle City Council and not a repudiation of everything Fremantle has to offer despite the seeming incompetence of its current council?*

No.

7. *Will the mayor and councillors provide East Fremantle residents with an unequivocal, categorical assurance that they have broken off all further contact with Fremantle council on the amalgamation issue and further, that they will report publicly to East Fremantle residents at the earliest possibility any further attempts by Fremantle council any other council, the WA government, the WA Local Government Association or any other pro-amalgamation body to rekindle this issue the WA Premier says is now dead?*

No. The Town of East Fremantle needs to collaborate with its neighbours on matters of mutual interest to leverage the political and financial capacity of the larger local governments such as Fremantle and Melville.

8. *Is it a fact, as reported to me following the TV appearance of Cr Cliff Collinson after the referendum result was known, that our Town Council refused the request of the Friends of East Fremantle anti-amalgamation for some limited use of the council photocopier? If so, because this decision seems churlish and very un-East Fremantle where we have always extended a helping hand to our voluntary groups fighting for the betterment of our Town, who made that decision and on what basis?*

Cr Collinson made a request to the Acting CEO for several thousand photocopies to be printed on the Town's photocopier for the campaign. The Acting CEO did not have the delegated authority to provide a donation of that value without Council authorisation. Given that Council had made a decision

not to actively campaign against amalgamation providing resources to one campaign group was not considered consistent with that decision.

CEO

1. *Have the 16 questions I submitted to the Special Council Meeting on Wednesday, February 4 2015 been answered yet?*

Mayor O'Neill's verbal responses to these questions are recorded in these minutes.

2. *Was the mayor elected to office in late 2013 without declaring publicly, as he appears to have done privately, that the first thing he would do was terminate the CEO's contract which, while signed in late 2013 before his election had been on the table for renegotiation by the previous council for 9 months or more?*

No.

3. *Who has initiated the formal move on the CEO's contract culminating in the Special Meeting, the confidential meeting of December 17 2014?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

4. *Was the first meeting arranged for soon after that December 17 Special Meeting whereby the council decision could be conveyed to the CEO cancelled by the mayor? If so, why?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

5. *Was a second meeting arranged by the mayor shortly after on condition the CEO did not attend, only that his advisors attend?*

No comment. This is a confidential staff matter and public speculation is inappropriate. This question contains assertions that are incorrect.

6. *If so, why was such an extraordinary demand put in place by the mayor for a "negotiation" meeting?*

No comment. This is a confidential staff matter and public speculation is inappropriate. This question contains assertions that are incorrect.

7. *Was it at this meeting that the mayor outlined termination under Clause 9.2.1 of his contract, in effect summary dismissal with little compensation?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

8. *Was WALGA represented at that meeting, if so by whom, and why was the mayor's deviation from the council decision not picked up particularly as the CEO had apparently been advised informally of the proposed termination under Clause 9.2.2 of his contract with a compensation component?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

9. *Why was WALGA brought in to deal with this sensitive matter in the first place when all that appears is it has made matters worse as it moves to defend its flawed model contract upon which hundreds of senior local government employees rely and which*

must have them all shaking in their boots at the prospect of summary dismissal with no reasons given?

No comment. This is a confidential staff matter and public speculation is inappropriate.

10. *Has the Acting CEO Gary Clark obtained further advice as to whether the mayor or councillors are appropriate persons for negotiating such sensitive issues such as the CEO's termination or how this could be better managed?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

11. *Was the letter from the CEO to the mayor setting out his preferences for settling the current mess circulated to all councillors and if not, why not as the council here is the employer, not the mayor?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

12. *In the absence of any adverse reports and in the presence of 16 years of huge success as a very popular CEO to staff who has not only guided in huge projects such as underground power, a balanced budget and no debt why is the council now moving to terminate the CEO summarily with no explanation to ratepayers?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

13. *How is the council going to deal with the shocking effect this action will have no staff moral (sic) given staff will be left with the question: "Who's next?"*

No comment. This is a confidential staff matter and public speculation is inappropriate.

14. *Will the council put an end to the whisper campaign against the CEO apparently as a result of the publicity in the press which is gathering pace over two matters, both of which have no substance and which were handled properly by the CEO, as these campaigns are damaging the CEO's reputation?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

15. *When is this council going to see sense and bring in the mediators to manage a return to work by the CEO upon completion of his current period of annual leave as these matters always have the effect of causing huge stress to all and the possibility of implosions or inquiries of organisations like council's who have failed to handle them properly?*

No comment. This is a confidential staff matter and public speculation is inappropriate.

16. *Subject to the response to these questions, widespread systems failure of the termination process within the council should at the very least bring forth a further call to the mayor to resign so will the mayor do the honourable thing and stand down immediately?*

No.

17 March 2015

MINUTES

68.2 Acting CEO

Mayor O'Neill announced that Council at a Special Meeting on 10 March 2015 extended Mr Gary Clark's contract for a further 12 months from 16 March 2015 to 11 March 2016 and he wished to congratulate Gary on this appointment. He advised there would be a press release to this effect later in the week.

68.3 Sculptures at Bathers Beach Exhibition

Mayor O'Neill advised that he, along with a number of elected members, Corine van Hall from the Art Acquisition Panel and staff attended a pleasant evening at the Sculptures at Bathers Beach exhibition preview held on Thursday, 12 March 2015.

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

Nil.

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

Nil.

71. CORRESPONDENCE

Nil.

72. TOWN PLANNING & BUILDING COMMITTEE**72.1 Matter referred from Town Planning & Building Committee Meeting – 3 March 2015:****(A) Habgood Street No 14 (Lot 5012)**

Applicant: Westmade Homes

Owner: T & J Scotchbrook

Application No. 175/2014

The following memo from Christine Catchpole, Town Planner, was considered:

The abovementioned application for proposed demolition of an existing dwelling and construction of a new single storey dwelling was considered by the Town Planning & Building Committee at its meeting held on 3 March 2015.

As the Committee failed to obtain the 5 votes in favour of the Reporting Officer's recommendation, as amended (see below), pursuant to Council's decision regarding delegated decision making made on 18 June 2014, a recommendation for approval subject to a number of conditions is to be considered by Council on 17 March.

Mayor O'Neill – Cr Rico

That the officer's recommendation be adopted.

Amendment

Cr Collinson – Cr Martin

That the officer's recommendation be amended as follows:

(i) *The following words be deleted from (c):*

“to allow a garage to be positioned forward of the building line and”

(ii) *The inclusion of the following as condition (1):*

“The applicant to submit amended plans showing the garage in line with the main building line of the residence.”

CARRIED 3:2

Revised plans have since been received from the applicant dated 6 March 2015 indicating the garage being setback a further 200mm to 8.7 metres. Previously the plans indicated the garage level with the porch. The garage is now setback 600mm behind the nib wall of the porch and 300mm behind the theatre room (the portion of the front façade



17 March 2015

MINUTES

closest to the street) whereas previously it was forward of the theatre room by approximately 400mm. The front façade of the house is setback 8.3 metres.

As the garage is now positioned behind the building setback line by 300mm the amended plans are considered to comply with the Town's Residential Design Guidelines 2013 and the application can be supported subject to the following conditions: Amended Plan/s Attached

RECOMMENDATION

That Council exercise discretion in granting approval to allow variations to:

- (a) Clause 5.1.2 – Lot Boundary Setback of the Residential Design Codes of WA to allow a setback of 1.53 metres to the south-eastern boundary;
 - (b) Clause 5.3.7 – Site Works of the Residential Design Codes of WA to allow excavation greater than 500mm between the street and the building; and
 - (c) Clause 3.7.17.3 – Garages, Carports and Outbuildings of Council's Residential Design Guidelines for the garage width to occupy more than 30% of the lot frontage;
- for demolition of the existing dwelling and construction of a single dwelling at No. 14 (Lot 5012) Habgood Street, East Fremantle, in accordance with amended plans (Revision No: DA 04, Sheet No's: A1, A2 & A3 of 3) date stamp received 6 March 2015 and subject to the following conditions:
1. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0 metres, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Residential Design Guidelines.
 2. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 3. The garage door details in respect to design, colour and materials are to be provided at building permit application stage and approved by the Chief Executive Officer in consultation with relevant Officers prior to the issue of a Building Permit.
 4. Details of the materials, colours and finishes of the dwelling are to be provided at building permit application stage and approved by the Chief Executive Officer, in consultation with relevant Council Officers prior to the issue of a Building Permit.
 5. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (g) below).
 6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval.
 7. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 8. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 9. All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be

removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (f) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (g) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".

Mr Scotbrook (owner) addressed the meeting advising he supported the recommendation contained in the officer's memo.

Cr Martin – Cr McPhail

That Council exercise discretion in granting approval to allow variations to:

- (a) **Clause 5.1.2 – Lot Boundary Setback of the Residential Design Codes of WA to allow a setback of 1.53 metres to the south-eastern boundary;**
- (b) **Clause 5.3.7 – Site Works of the Residential Design Codes of WA to allow excavation greater than 500mm between the street and the building; and**
- (c) **Clause 3.7.17.3 – Garages, Carports and Outbuildings of Council's Residential Design Guidelines for the garage width to occupy more than 30% of the lot frontage;**

for demolition of the existing dwelling and construction of a single dwelling at No. 14 (Lot 5012) Habgood Street, East Fremantle, in accordance with amended plans (Revision No: DA 04, Sheet No's: A1, A2 & A3 of 3) date stamp received 6 March 2015 and subject to the following conditions:

1. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0 metres, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Residential Design Guidelines.
2. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
3. The garage door details in respect to design, colour and materials are to be provided at building permit application stage and approved by the Chief

- Executive Officer in consultation with relevant Officers prior to the issue of a Building Permit.
4. Details of the materials, colours and finishes of the dwelling are to be provided at building permit application stage and approved by the Chief Executive Officer, in consultation with relevant Council Officers prior to the issue of a Building Permit.
 5. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (g) below).
 6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval.
 7. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 8. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 9. All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

17 March 2015

MINUTES

- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".* CARRIED 8:0

(B) Proposed Amendment – Residential Design Guidelines – Roof Material

Cr Martin – Cr Collinson

The adoption of the Committee's recommendation which is as follows:

That Council:

- (a) adopt the proposed amendments to the Local Planning Policy - 'Residential Design Guidelines' as endorsed at its meeting held on 9 December, 2014; and
- (b) pursuant to clause 2.4.3 of the Town of East Fremantle Town Planning Scheme No. 3, Council resolves to publish notice of the Policy once in a newspaper circulating in the Scheme area. CARRIED 8:0

(C) Review of Municipal Heritage Inventory and Heritage List

Cr Martin – Cr McPhail

The adoption of the Committee's recommendation which is as follows:

That this report be noted and that the draft LPP – Heritage Areas be held in abeyance pending completion of consultation in respect to the Category A and B properties on the Municipal Inventory. CARRIED 8:0

(D) Review of Town Planning Scheme No 3 – Scheme Amendment 10

Cr Martin – Cr McPhail

The adoption of the Committee's recommendation which is as follows:

That Council:

1. endorse the modification of draft Scheme Amendment 10 by the deletion of the proposed R-Code density change from R12.5 to R20 in respect to the Richmond and Richmond Hill Precincts.
2. adopt the Scheme Amendment 10 as modified and submit it to the Minister for Planning for Final Approval pursuant with s.87. of the Planning and Development Act 2005.
3. endorse the public notification (including a mail out to all affected property owners) of Amendment 11 to TPS No. 3 comprising the change of R-Code density zone for the Richmond and Richmond Hill Precincts from R12.5 to R17.5. CARRIED 8:0

72.2

Delegated Authority – Town Planning & Building Committee*By Jamie Douglas, Manager Planning Services, on 27 February 2015***PURPOSE OF THIS REPORT**

With the resignation of Councillor Handcock it is proposed the number needed to constitute a quorum of the Town Planning & Building Committee be reduced to three and the number of Elected Members required to exercise delegated authority be reduced from five to four.

DISCUSSION

Consistent with the prior procedure adopted in respect to the resignation of Cr De Jong it is proposed that Council approve that the quorum for the Town Planning & Building Committee be reduced from four to three Elected Members until membership of the Committee is restored to seven.

With respect to the issue of delegated authority, it is further recommended that with the reduced membership of six on the Committee, the number of elected members' votes for delegated authority should, whilst this number remains, be reduced from five to four.

If the number of members on the Committee returns to seven, the number required for delegated decision making can return to five. This is preferable as this number had the benefit of representing an absolute majority of elected members.

RECOMMENDATION

Pursuant to Council's decision regarding delegated decision making made on 21 May 2013, in the current circumstances of Cr Handcock having resigned, and not having been replaced on the Committee, it be the decision of Council that from 1 March 2015 until the matter is further reviewed, four Town Planning & Building Committee elected members, instead of the current five as per clause 2(a) of that decision, be sufficient to exercise delegated authority and that three Committee members shall comprise a quorum.

Absolute Majority Resolution Required

Cr Martin – Cr Collinson

Pursuant to Council's decision regarding delegated decision making made on 21 May 2013, in the current circumstances of Cr Handcock having resigned, and not having been replaced on the Committee, it be the decision of Council that from 1 March 2015 until the matter is further reviewed, four Town Planning & Building Committee elected members, instead of the current five as per clause 2(a) of that decision, be sufficient to exercise delegated authority and that three Committee members shall comprise a quorum.

CARRIED 8:0
ABSOLUTE MAJORITY

The Manager Planning Services left the meeting at 6.54pm.

73. FINANCE

73.1 Audit Committee Meeting – 25 February 2015

Cr McPhail – Cr Rico

That the Minutes of the Audit Committee Meeting held on 25 February 2015 be received. CARRIED 8:0

(A) A9.1 2014 Compliance Audit Return

Cr McPhail – Cr Rico

The adoption of the Committee's recommendation which is as follows:

That Council adopt the Compliance Audit Return for the period 1 January to 31 December 2014. CARRIED 8:0

73.2 Finance Committee Meeting – 25 February 2015

Cr Rico – Cr Watkins

That the Minutes of the Finance Committee Meeting held on 25 February 2015 be received. CARRIED

(A) F9.1 2014/2015 Half Year Budget Review

Cr Rico – Cr Watkins

The adoption of the Committee's recommendation which is as follows:

That Council:

1. receives the Half Yearly Budget Review report for the period ended 31 December 2014.
2. notes the budget amendments already adopted by Council during the period 1 July 2014 to 31 December 2014 adding a surplus of \$2,500.
 - \$20,000 I12091 Additional revenue from Trust Recovery
 - \$10,000 E04270 Additional sponsorship Future Freo Project.
 - \$ 7,500 I03055 Bus Shelter disability upgrade Canning Hwy
 - \$50,000 344 Transfer from Restricted Cash Reserve
 - \$50,000 E11246 Return of unspent grant

3. adopts the budget review recommendations with the following variations for the period 1 July 2014 to 31 December 2014 and amends the budget accordingly:
- \$11,000 I4086 increased income from members dividend of LGIS Scheme
 - \$24,000 E04254 increased election expenses from poll and extraordinary election
 - \$50,000 E04257 savings from cessation of reform activities
 - \$492,000 E04201 increased expenditure for staff entitlements.
 - \$30,000 E04203 savings from visioning program
 - \$27,000 I08088 increased grant income for growth
 - \$27,000 E08210 increased expenditure from service growth
 - \$35,000 I10088 reduced income from development applications
 - \$37,000 E10227 increased expenditure on Waste Composting Facility
 - \$12,000 E10239 savings from strategic urban plan project
 - \$30,000 I11177 increased income from successful grant for Foreshore plan.
 - \$17,000 E11246 savings from East Fremantle Oval master plan reduction in activity
 - \$28,000 E11249 savings in library shared services
 - \$13,000 E11228 savings in the community events budget
 - \$18,000 E11263 increased East Fremantle Festival expenditure
 - \$136,000 I12087 reduced income from Plympton Parking Plan.
 - \$25,000 I12181 reduced income from paid parking fees
 - \$14,000 E12237 savings in kerbing maintenance
 - \$10,000 E14304 savings on mobile plant insurance
 - \$15,500 E06630 savings from Ulrich Park playground replacement
 - \$36,500 E11364 increased expenditure on Plympton Steps
 - \$49,500 E11640 savings from John Tonkin Park playground replacement
 - \$136,000 E12681 savings from Plympton Parking contingency
 - \$20,000 E12733 savings from Locke Crescent resurfacing
 - \$11,500 E12734 additional costs for Hubble Street resurfacing
 - \$14,500 E12735 savings from Glyde Street footpath renewal
 - \$53,500 E12736 savings from Duke Street footpath renewal
 - \$23,400 E11690 new work for Stratford Street playground equipment and shade
 - \$29,000 E11616 new work for Norm McKenzie playground equipment and shade
 - \$23,000 E06630 new work for Ulrich Park shade sails
 - \$34,300 E11673 new work for Glasson Park shade sails
 - \$20,000 E12737 new work for No 4 Car Park lighting Riverside Road
 - \$286,000 0480 additional transfer from Staff Leave Reserve for staff entitlements
 - \$144,700 decrease in closing funds.

CARRIED 8:0
ABSOLUTE MAJORITY

73.3

Monthly Financial Activity Statement for Period Ending 28 February 2015
By Les Mainwaring Executive Manager Finance & Administration on 09 March 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

This report comprises the financial results from the monthly period ending February 2015 with commentary focussing on comparisons to the year to date budget position as at 28 February.

The monthly Financial Activity Statement for the period 28 February 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 June 2015 indicates a surplus budget of \$164,948 which is the budget position after accepting the monthly financial report received 17 February 2015.

This forecast will be modified by the results of the half Yearly Budget Review considered by the Finance Committee 25 February 2015 and to be adopted at the Ordinary Meeting 17 March 2015.

Previous amendments identified to January 2015 where;
\$10,000 Additional asphalt expenditure on the Stirling bridge carpark.

\$15,000 Correction layering for drainage and additional asphalt expenditure on the Norm McKenzie carpark,

\$25,000 Savings in asphalt expenditure on Locke Crescent resurfacing.

\$20,000 Additional income from contract retention.

\$10,000 Additional cost of sponsorship for the "Future Freo" project

\$7,500 Cost of Bus Shelter disability access upgrade on Canning Hwy.

\$50,000 Additional income as a Transfer from Restricted Cash Reserve for the release of the unspent grant for the East Fremantle Oval master plan project.

\$50,000 Additional expenditure for return of DSR East Fremantle Oval master plan project.

Operating YTD Actuals (compared to the YTD Budget)

Operating Revenue 100%; is \$6,000 more than the YTD budget. (Favourable)

Operating Expenditure 96%; is \$215,000 less than the YTD budget. (Favourable)

After non-cash adjustments, the total operating cash forecast is \$287,000 more than the YTD budget (Favourable).

Operating Revenue is even with year to date budget.

The significant unfavourable variance within operating revenue is the transfer of developer contribution for the Plympton Parking project which was yet to commence, whereas the significant favourable variance has come from forward grant income of the Home and Community Care program.

Operating Expenditure is 4% favourable to year to date budget.

The main areas of favourable variation are governance expenditure relating to projects and community amenities timing of waste collection and waste processing charges.

All capital activities have been set forward in the budget so that they can be easily monitored in terms of progress; hence revenues aligned with capital projects have also been set forward which presents timing differences until projects are completed.

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

Capital Programs YTD Progress Summaries

Annual Timeline 67% of year elapsed

Land & Buildings 31% expended

Infrastructure Assets 53% expended

Plant & Equipment 101% expended

Furniture & Equipment 13% expended

Capital expenditure is \$1,335,000 less than the YTD budget (Favourable) which represents 50% of the capital programs to be completed. The report provides details on individual capital works in progress as at 28 February 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 February 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 2014 to 28 February 2015 is presented to the Council for timely information. The current annual forecast of a \$164,948 surplus is confirmed by these accounts in conjunction with further analytical analysis undertaken at officer level; however this will change as a result of recommendations from the Half Yearly Budget review.

Voting Requirements

Absolute Majority

RECOMMENDATION

That Council receives the Financial Activity Statement for the period ending 28 February 2015.

Cr McPhail – Cr Rico

That Council receives the Financial Activity Statement for the period ending 28 February 2015. CARRIED 8:0

17 March 2015

MINUTES

- 73.4** **Accounts for Payment – February 2015**
By Les Mainwaring, Executive Manager Finance & Administration on 10 March 2015

PURPOSE

To endorse the list of payments made under delegated authority for the period 1 February to 28 February 2015.

BACKGROUND

The 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 February to 28 February 2015 requires endorsement by the Council.

RECOMMENDATION TO COUNCIL

That the List of Accounts paid for the period beginning 1 February to 28 February 2015 be received, as per the following summary table:

<i>February 2015</i>		
Voucher Nos	Account	Amount
4848 – 4854	Municipal (Cheques)	\$3,680.30
EFT 20598 – EFT 20655	Electronic Transfer Funds	\$216,131.80
Credit Card	CEO	1,816.39
Payroll	Electronic Transfer Funds	\$205,054.72
	Municipal Total Payments	\$426,683.21

Cr McPhail – Cr Watkins

That the List of Accounts paid for the period beginning 1 February to 28 February 2015 be received. CARRIED 8:0

The Executive Manager Finance & Administration left the meeting at 7.03pm.

74. REPORTS OF ELECTED MEMBERS**74.1 Future Freo Project**

Cr McPhail reported on the second Future Freo steering committee meeting held on Monday evening.

The CEO noted some interesting data being collected for this project. Cr McPhail advised that it was intended fact sheets would be distributed every three months to keep residents informed of the project.

17 March 2015

MINUTES

74.2 SMRC
Cr McPhail provided an update on the proposal to sell the Materials Recovery Fund and other SMRC matters.

74.3 Royal George Hotel
Cr Collinson reported that he had met with Simone McGurk MLA on a number of occasions and it was anticipated that she would submit a motion into parliament for the building not to be sold until a proper Conservation Plan had been prepared for its full heritage restoration. Cr Collinson advised it was intended to circulate a petition seeking this action and he hoped Council would allow copies of the petition on the front counter.

74.4 Fremantle Ports
Cr Harrington reported she had received advice today that lead mining from Rosslyn Hill Mining had ceased until lead prices improved and therefore there would be no further transportation to the port.

75. ADJOURNMENT
Mayor O'Neill – Cr McPhail
That the meeting be adjourned at 7.10pm. CARRIED

76. RESUMPTION
Cr Harrington – Cr McPhail
That the meeting be resumed at 7.15pm with all those present prior to the adjournment, in attendance. CARRIED

77. REPORTS OF ACTING CHIEF EXECUTIVE OFFICER

77.1 Extraordinary Councillor Vacancy Expiring 2017 – Richmond Ward
By Gary Clark, Acting Chief Executive Officer, on 9 March 2015

PURPOSE

The purpose of this report is to consider Council's options in relation to the extraordinary vacancy for a Richmond Ward Councillor.

BACKGROUND

Following the resignation of Cr Matthew Handcock on 17 February 2015, a vacancy now exists for a Councillor for the Richmond Ward with the term expiry October 2017.

REPORT

Introduction/Comments

This report seeks a decision on whether to conduct an extraordinary election or whether to hold the vacancy over to the scheduled local government elections in October 2015

Following a request to the WA Electoral Commission for a quotation to conduct this extraordinary postal election, the attached costing has been received.

Issues

The following issues are relevant to the decision;

1. Impact on representation
2. Impact on governance
3. Cost
4. Staff resources

Impact on Representation

The earliest an election could be held is the 11th June 2015. This means that there would be a vacancy for four months if Council decided not to hold an extraordinary election.

The community will continue to be very well represented with seven Councillors and a Mayor to represent 5,200 electors.

Impact on Governance

If a new Councillor was elected in June 2015 they would be joining Council at a point when they would have minimal input into governance decisions that would impact on the 2015/16 year. The Community Strategic Plan and all other integrated plans including the budget would already be in place or about to be adopted.

The impact on governance would be negligible if the vacant position was not filled in June 2015.

Cost

The quoted cost an extraordinary election by post is \$10,000. An allowance has been made in the mid-year budget review, as a contingency, however these funds could be directed towards activities that have a more direct community benefit.

Staff Resources

While a postal election run by the Electoral Commission has much less impact on staff resources than an in person election there are resources consumed in supporting the Electoral Commission, organising the electoral roll, having the count. After the election there is the swearing in of the new Councillor and Councillor induction and support.

It would be preferable to do this work once in October.

Consultation

WA Electoral Commission

Statutory Requirements

Local Government Act 1995, Part 4, Division 4;

- Section 4.9 - Council must fix a date for an extraordinary election at a meeting held within one month of the vacancy occurring.
- Section 4.16 (4) - If a member's office becomes vacant under section 2.32 —
 - (a) after the third Saturday in January in an election year; but
 - (b) before the third Saturday in July in that election year, the council may, with the approval of the Electoral Commissioner, fix the ordinary elections day in that election year as the day for holding any poll needed for the extraordinary election to fill that vacancy.
- Section 4.20 (4) - A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.
- Section 4.61 (2) - The local government may decide* to conduct the election as a postal election.

*(absolute majority required)

Relevant Council Policies

Nil

Strategic Plan Implications

Nil

Financial/Resource/Budget Implications

The quoted cost an extraordinary election by post is \$10,000.

Conclusion

If an extraordinary election is not held, and the current vacancy remains until the October ordinary elections, the impact of the current vacancy on the representation and governance of the Town will be minimal.

The resources, both financial and human, that would be expended on an extraordinary election could be better utilised on activities that have a more direct community benefit.

RECOMMENDATION

That Council seek the approval of the Electoral Commissioner to fix the ordinary elections day in October 2015 as the day for holding the poll needed for the extraordinary election to fill the vacancy in the Richmond Ward.

Cr Martin – Cr Harrington

That Council seek the approval of the Electoral Commissioner to fix the ordinary elections day in October 2015 as the day for holding the poll needed for the extraordinary election to fill the vacancy in the Richmond Ward. CARRIED 8:0

77.2

2013/2014 Electors' Meeting

By Gary Clark, Chief Acting Executive Officer, on 9 March 2015

PURPOSE

The purpose of this report is to present the Minutes of the 2013/14 Annual Electors' Meeting and facilitate consideration of any decisions taken at the meeting.

BACKGROUND

Under Section 5.33(1) of the Local Government Act 1995, all decisions made at an Electors' Meeting "are to be considered at the next ordinary council meeting or, if that is not practicable" at the next meeting thereafter.

Section 5.33(2) of the Act provides that *if* the Council makes a decision in response to a decision made at an Electors' Meeting, the reasons for the decision are to be recorded in the minutes.

The Minutes of the Annual Electors' Meeting held on 2 February 2015 are attached.

ATTACHMENT

REPORT

Although, no resolutions were passed at this meeting which required a Council decision, the following sets out officer comment to matters which were undertaken to be followed up:

5.2.3 East Fremantle Foreshore

The Operations Manager has met with Ms Wisniewski and advised as follows:

- A Council staff member checks the bunting twice a week to ensure it is in place.
- In respect to not responding to their request for further works, this was noted, however the proposal to commission a Foreshore Plan which would include this area had been mentioned to the Group on a number of occasions.

5.2.4 Town Hall

The paint used on the western wall had been matched to the colour specifications of the original however it was acknowledged it did not appear identical to the remainder of the building. It was considered the wall would weather over time to blend with the colour of the other walls. This will be monitored.

5.2.16 Recycling Education

The Principal Environmental Health Officer advises that SMRC have produced bin wraps for public bins during festivals, events etc for some local governments. These bin wraps provide information on what goes in each bin. She will enquire with SMRC regarding the

cost to provide sticker versions of these for possibly use in public parks and also for distribution to households. The PEHO is also investigating the cost of installing a bulk bin (rubbish to landfill) at John Tonkin.

Currently Council's Facebook page and website provide information regarding recycling and a link to the "recycle right" webpage.

5.2.19 Traffic/Parking May/Silas Street

Manager Planning Services advised that an analysis and consultation exercise for parking in the vicinity of the Town Centre had been carried out in 2013 resulting in changes to line marking and management in Silas and May Streets. Whilst the area is being constantly monitored, the situation is unique until construction is completed. It would be appropriate to review parking in the Town Centre once redevelopment has been completed and the public carpark has been reinstated. In the meantime the developers have employed Wilson's to manage the time limited car parking within their signed area.

5.2.24 Cyclist Safety Riverside Road/Preston Point Road

Operations Manager advises that the commissioning of a consultant to review Riverside Road in respect to its condition and design will be listed as an item on the draft budget.

The idea of investigating modifications to Preston Point Road to make it more cycle friendly has been raised a couple of times since the roadworks were completed. The major objective of the original modifications was to reduce accidents by slowing traffic, providing safer pedestrian access across the road and a safer parking environment.

The reason a dedicated cycle lane had not been built was because (unlike the City of Melville section of the road) there was no room. It should be noted however there was not previously a dedicated cycle lane on Preston Point Road and further, the designated cycle route was Riverside Road, which had this facility.

The Executive Manager Finance and Administration advises that the original project was carried out at a cost of \$1,223,000, comprising of \$688,000 of Blackspot funding and a Council contribution of \$535,000.

Any changes to the design of Preston Point Road would need to be considered and funded when the road becomes due for resurfacing otherwise the work would be at the expense of other asset renewal projects such as footpaths.

5.2.27 Perth Freight Network

Staff will monitor the Perth Freight Link project and ensure that the issues around traffic noise, congestion and pollutants are highlighted. Council will lobby so that these issues are mitigated during the design phase of the project.

Residents will be kept informed through our web site, social media and local media.

RECOMMENDATION

That the Minutes of the Annual Electors' Meeting held on 2 February 2015 be received and the subsequent action of officers noted.

Cr Martin – Cr Collinson

That the Minutes of the Annual Electors' Meeting held on 2 February 2015 be received and the subsequent action of officers noted. CARRIED 8:0

78. CONFIDENTIAL BUSINESS

Nil.

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

79.1 **Cr Collinson – Climate Change Declaration**
“That the Town of East Fremantle sign the WALGA declaration on climate change.”

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

80.1 **Cr Rico – Acknowledgement of Former CEO**
Cr Rico – Cr Collinson
That a motion acknowledging the service of the CEO be considered a matter of an urgent nature. LOST ON THE CASTING VOTE OF THE MAYOR

81. CLOSURE OF MEETING
There being no further business, the meeting closed at 7.30pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **17 March 2015**, Minute Book reference **59. to 81.** were confirmed at the meeting of the Council on*

.....

Presiding Member