



# MINUTES

## Special Council Meeting

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### Tuesday, 10 January 2017 at 6.00pm

#### **Disclaimer**

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**1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS**

The Presiding Member opened the meeting at 6.05pm.

**2. ACKNOWLEDGEMENT OF COUNTRY**

*“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.”*

**3. RECORD OF ATTENDANCE**

**3.1 Attendance**

Mayor O’Neill (Presiding Member)  
Cr J Harrington  
Cr A McPhail  
Cr M McPhail  
Cr A White  
Cr L Nicholson

**3.2 Apologies**

Cr Collinson  
Cr Watkins  
Cr Nardi

**3.3 Leave of Absence**

Nil

**4. PUBLIC QUESTION TIME**

Nil.

**5. DISCLOSURES OF INTEREST BY MEMBERS**

Nil.

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## 6. BUSINESS

### 6.1 Disposal of a Surplus Vehicle

<b>Applicant</b>	Mr Leslie Mainwaring
<b>File ref</b>	F/VEH1
<b>Prepared by</b>	Chief Executive Officer
<b>Supervised by</b>	Chief Executive Officer
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Draft - Public Disposal Notice

#### **Purpose**

The purpose of this report is to seek Council's authorisation to dispose of a 2013 Toyota Camry Atara 2.5 SX Sedan (Rego: 1EDQ655) to Mr. Leslie Mainwaring for the sum of \$15,000.

#### **Executive Summary**

The Chief Executive Officer does not have delegated authority to deal with the proposed disposal of the 2013 Toyota Camry Atara 2.5 SX Sedan (Rego: 1EDQ655). Therefore, Council is requested to give consideration to authorising the disposal, subject to advertising the proposed sale pursuant to section 3.58 of *Local Government Act* at a sale price of \$15,000 to Mr Leslie Mainwaring.

#### **Background**

The Executive Manager Finance & Administration (EMFA) is provided with a vehicle (Toyota Camry) as a condition of their employment.

Council has budgeted for the disposal and replacement of this staff vehicle in its Annual Budget. A replacement vehicle was recently purchased for this position (EMFA). Therefore, the 2013 Vehicle (1EDQ655) is now surplus to council requirements.

An offer has been received by former employee Mr Leslie Mainwaring to purchase the old (2013) vehicle (1EDQ655) for \$15,000.

#### **Consultation**

Email 5/01/17 - Pickles Auctions

*"As an auction estimate, I believe it would achieve around the \$15k mark".*

#### **Statutory Environment**

In part, section 3.58 of the *Local Government Act 1995* states;

##### **3.58. Disposing of property**

- (1) *In this section —*  
**dispose** includes to sell, lease, or otherwise dispose of, whether absolutely or not;  
**property** includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) *Except as stated in this section, a local government can only dispose of property to —*
  - (a) *the highest bidder at public auction; or*
  - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

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- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) *it gives local public notice of the proposed disposition —*
    - (i) *describing the property concerned; and*
    - (ii) *giving details of the proposed disposition; and*
    - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
- and*
- (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) *the names of all other parties concerned; and*
  - (b) *the consideration to be received by the local government for the disposition; and*
  - (c) *the market value of the disposition —*
    - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
    - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) This section does not apply to —
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
  - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
  - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
  - (d) *any other disposition that is excluded by regulations from the application of this section.*

**Local Government (Functions and General) Regulations 1996**

30. *Dispositions of property excluded from Act s. 3.58*

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act*
  
- (3) *A disposition of property other than land is an exempt disposition if —*
  - (a) *its market value is less than \$20 000; or*
  - (b) *the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.*

**Policy Implications**

Delegation DA4 in part states as follows;

DA4 Disposal of Property other than land

*The power to dispose of items of a minor nature by private treaty, such as surplus old plant or equipment, where the anticipated value is:*

- *less than \$5000.*

1. *This delegation does **NOT** apply to the disposal of plant or light vehicles or equipment that is being replaced by a tender or quotation process involving trade-in.*

### **Financial Implications**

Council had budgeted (2016/17) \$15,000 in sale proceeds for the vehicle (1EDQ655).

An independent valuation of \$15,000 has been provided by Pickles Auctions as to the expected sale price that would be achieved at auction. In more recent times council has not been achieving the suggested auction reserve prices.

The “*Red Book*” places a trade-in value price of between \$12,400 to 14,300.

### **Strategic Implications**

*Key focus Area 3: Built and natural environment.*

### **Site Inspection**

Site inspection undertaken: No.

### **Triple Bottom Line Assessment**

#### Economic implications

There are no known significant economic implications associated with this proposal.

#### Social implications

There are no known significant social implications associated with this proposal.

#### Environmental implications

There are no known significant environmental implications associated with this proposal.

### **Comment**

Originally Mr Mainwaring’s offer for the vehicle (1EDQ655) was \$11,000, being the vehicle’s Written Down Value (WDV), which was not considered fair and reasonable.

Mr Mainwaring submitted a second offer in line with the Pickles valuation of \$15,000 to purchase the Toyota Camry (1EDQ655) which is considered fair and reasonable.

Whilst the proposed disposal is exempt pursuant to Regulation 30(3)(a) the *Local Government (Functions and General) Regulations 1996*, given that Mr Mainwaring is an immediate past employee for transparency purposes it is recommended that Council treat the proposed disposal as if it was subject to section 3.58 of the *Local Government Act* and advertise the proposed disposal for public submissions.

**6.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 010117**

Moved Cr M McPhail, seconded Cr Nicholson

That Council;

- (a) Authorise the advertising of the proposed disposal of the 2013 Toyota Camry Atara 2.5 SX Sedan (1EDQ655) to Mr Leslie Mainwaring for \$15,000 in accordance with section 3.58 of the Local Government Act.
- (b) That subject to not receiving any submissions in accordance with 3.58 (3) authorise the Chief Executive Officer to complete the transaction involving the disposal of the 2013 Toyota Camry Atara 2.5 SX Sedan (1EDQ655) to Mr Leslie Mainwaring for the sum of \$15,000.

(CARRIED 6/0)

**7. CLOSURE OF MEETING**

There being no further business, the Presiding member declared the meeting closed at 6.22pm.

*I hereby certify that the Minutes of the special meeting of the **Council** of the Town of East Fremantle, held on **10 January 2017**, Minute Book reference **1** were confirmed at the meeting of the Council on*

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*Presiding Member*