



3 May 2011

MINUTES

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 3 MAY, 2011 COMMENCING AT 6.38PM.

95. DECLARATION OF OPENING OF MEETING

The Deputy Mayor (Presiding Member) declared the meeting open.

95.1 *Present*

Mayor A Ferris	Presiding Member
Cr C Collinson	
Cr B de Jong	(From 7.35pm)
Cr S Martin	
Cr D Nardi	
Cr R Olson	
Cr M Rico	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Mr J Roberts	Executive Manager Finance & Administration (To 8.45pm)
Mr K Dyer	Operations Manager (To 8.45pm)
Mr D Vaughan	(To 8.45pm)
Ms J May	Minute Secretary (To 9.30pm)

96. 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.”

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

There was one member of the public in the gallery at the commencement of the meeting.

The Mayor introduced elected members and staff, and welcomed Mr David Vaughan who would be relieving Council's CEO, Stuart Wearne, whilst on leave.

98. RECORD OF APPROVED LEAVE OF ABSENCE

Cr de Jong (Cr de Jong subsequently attended this meeting)
Cr Lilleyman.

99. RECORD OF APOLOGIES

Nil.

100. PUBLIC QUESTION TIME

Nil.

101. ORDER OF BUSINESS

Cr Collinson – Cr Rico

That the order of business be changed to allow Ms Rebecca James to address the item relating to East Freo Farm Inc. CARRIED

102. HEALTH & GENERAL PURPOSES

102.1 *Request for funding by East Freo Farm Inc*

By Shelley Cocks Principal Environmental Health Officer on 28 April 2011

PURPOSE

The purpose of this report is to notify Council of a formal request for funds from East Freo Farm Inc for the establishment of a community garden in the vacant block at the rear of 9 Seeds Café in Marmion Street Fremantle.



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BACKGROUND

Following a report to Council on 14 December 2010 on the proposed East Fremantle Community Garden in Locke Park, Council resolved the following:

Mayor Ferris – Cr Collinson

That the application be deferred pending a meeting to be held between East Freo Farm Inc, the CEO, the Mayor, the Operations Manager and Principal Environmental Health Officer to discuss the approach for identifying alternative sites.

ATTACHMENT

The Mayor later indicated, quite reasonably, that Council officers identify at least one suitable potential site prior to the meeting being arranged.

Accordingly the CEO, Operations Manager and Principal Environmental Health Officer assessed alternative sites within the Town of East Fremantle and identified vacant land at 243-245 Canning Highway as appearing, in the first instance, to be the most suitable. The CEO then wrote to the WAPC seeking to lease this site with a view to sub-leasing to East Freo Farm Inc for a community garden. This request was consistent with an earlier offer by the WAPC, made some years ago, following a request from the CEO to lease the land to Council for a peppercorn, for a "community park", as requested by a number of residents of Oakover Street. Whilst that request had been agreed to, at that time (although for other reasons not proceeded with), on this occasion the WAPC however refused the request in relation to the community garden, essentially on the grounds that there could be resistance, either from the group or Council or both, when the WAPC sought the return of the land. The CEO subsequently responded to these concerns via telephone conversations with WAPC officers and in correspondence, requesting that this decision be reviewed. To date a response to the request has not been received.

ATTACHMENTS

In the interim, East Freo Farm Inc has been successful in obtaining the use of privately owned land behind the 9 Seeds Café in Marmion Street within the City of Fremantle. The group have a verbal agreement with the Café who have a 9 year lease on the site. The block is approximately 500 square metres and will be used for a demonstration and communal garden, rather than individual plots.

The group has been successful in obtaining a Department of Environment Waste Minimisation grant to set up compost and worm farms.

They have requested an amount of \$3,000 from the Town of East Fremantle for the following:

- | | |
|---|-------|
| • Bobcat to level ground and remove rubbish | \$800 |
| • Insurance | \$550 |
| • Soil/manure/hay for raised garden beds | \$650 |
| • Children's play equipment | \$750 |
| • Plumbing/reticulation (labour donated) | \$250 |

The group is in receipt of a number of donated goods and services including 2 garden sheds, plumbing services and the abovementioned grant.

DISCUSSION

East Freo Farm Inc have approached the Council for financial assistance on the basis that the Town of East Fremantle has already given in-principle support for a community garden and has allocated a sum of \$10,000 for use in a future community garden within the Town.

Council may wish to consider the following aspects in consideration of this request:

- The community garden is not situated with the Town of East Fremantle, but in neighbouring City of Fremantle. As the CEO has advised the group (see reference to letter below), it is unusual for any local government to expend funds on a project



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located outside of its physical boundaries, especially when the funds were budgeted for on the basis of a site within Council boundaries.

- Nevertheless, Council has made donations to external organisations and other local governments in the case of floods or other natural disasters, on a humanitarian basis and in the same context there is no statutory reason why a grant could not be made if this was the decision of elected members.
- Regional projects exist between groups of councils for projects of mutual benefit, usually with the express agreement of all stakeholders such as the shared East Fremantle Fremantle Library Services.
- The City of Fremantle has not been asked for funding by East Freo Farm Inc at this stage.
- Council may consider that this funding will be spent on land not necessarily in the public domain however accessible to the public during community education sessions such as for the composting and worm farming. This may benefit East Fremantle residents who are members of East Freo Farm Inc or who may be wondering how to get the best benefit of their subsidised wheelie bins or compost bins purchased from the Town of East Fremantle.
- The group has no security of tenure at the proposed site, however seem optimistic that their verbal agreement will permit the establishment of a community garden. Is council prepared to invest in a project which may be limited due to unforeseen events and lack of a written contract? If so should Council determine that they wish to donate funds only for items which can be relocated such as children's play equipment?

The group has advised they wish to have their disappointment conveyed to Council for the manner in which they feel they have been treated by the Council. In fact an email to the Mayor of Fremantle refers to a bureaucratic merry go round being experienced by the group with respect to the Town of East Fremantle.

The CEO has taken exception to this aspect of the correspondence sent to Mayor Pettitt and made comment in that regard in a letter sent in response to correspondence from the group.

ATTACHMENTS

Regardless of any communication issues, given the support of elected members and Council officers for the community garden concept, including by budgeting related funding in the current budget, Council may wish to acquiesce to this request for funding in a spirit of "goodwill", given that there may be further opportunities for Council and the group to work together in the future.

RECOMMENDATION

Council should therefore choose one of the following options:

- Council refuse the request for a foundation grant of \$3000
- Council agree to the request for a foundation grant of \$3000 for the proposed purposes
- Council provide a foundation grant of another amount (determined by elected members)
- Council donate play equipment to the value of \$3000 or a lesser value
- Council provide donated labour to complete point 1 – levelling ground and removing rubbish.

Ms Rebecca James (East Freo Farm Inc representative) addressed the meeting advising that she considered the officer's report was a very balanced report and thanking Council for giving consideration to providing a grant notwithstanding the location of their site (at the rear of 9 Seeds Café) is within the City of Fremantle. Ms James expressed regret that miscommunications had created a strained relationship between the group and Council and hoped that both parties could move forward to work together for the large group of East Fremantle residents who were enthusiastic and ready to get involved in the project. Ms James advised that should a suitable location within East Fremantle become



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available, the group would welcome the chance to relocate, however, would probably look to retain the current site as a "demonstration" site.

At the invitation of the Mayor, the CEO spoke, thanking Ms James for her comments and advising that notwithstanding any perception of communication problems, Council officers and elected members, all of whom were in strong support of the community garden concept, had worked hard to come up with a feasible site in East Fremantle. The CEO also stated he hoped the meeting tonight would agree on financial and/or other support for the group.

Ms James answered questions on what Council assistance would be most beneficial to the group and confirmed that the use of Council staff and a bobcat to remove grass and level the site would greatly assist the group to commence operations, providing this could be carried out in the near future.

Discussion took place regarding the question of utilising Council expenditure on private land and what equipment could be transferred to a new site should this situation arise.

Cr Collinson – Cr Nardi

That subject to a formal agreement between the East Fremantle Farm Inc and 9 Seeds Café regarding tenancy, Council agree to the request for a foundation grant of \$3,000 for the proposed purposes and provide donated labour to complete the levelling of the ground and removal of rubbish at the rear of 9 Seeds Café in Marmion Street Fremantle.

CARRIED

Cr Collinson left the meeting at 7.15pm, returning at 7.17pm.

103. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

103.1 ***Southern Metropolitan Regional Council***

Mr Stuart McAll addressed the meeting regarding:

- SMRC 2011-2012 Budget
- Material Recovery Facility
- odour issues

and answered numerous questions raised by elected members and staff on issues relating to:

- the withdrawal of the City of Rockingham
- weekly recycling collections
- the operation of other metropolitan waste facilities
- City of Melville's recent call for a report into the SMRC operations
- impact of future carbon tax.

Cr de Jong entered the meeting during this address at 7.35pm.

Mr McAll advised that the SMRC was currently arranging a Stakeholders function which would include a tour of the facilities and invited all elected members to attend.

The Mayor thanked Mr McAll for his presentation, following which he left the meeting at 8.10pm.

104. APPLICATIONS FOR LEAVE OF ABSENCE

104.1 ***Cr Wilson***

Cr Wilson sought leave of absence for the Council Meeting scheduled for 5 July 2011.

Cr Rico – Cr Olson

That leave of absence be granted to Cr Wilson for the meeting scheduled for 5 July 2011.

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105. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**105.1 Council Meeting – 19 April 2011****Cr Olson – Cr de Jong**

That the Minutes of the Council Meeting held on 19 April 2011 be confirmed.

CARRIED**106. ANNOUNCEMENTS BY DEPUTY MAYOR WITHOUT DISCUSSION****106.1 WALGA/Roadwise**

The Mayor advised of correspondence from WALGA congratulating Council's Neighbourhood Watch Coordinator, Noel Nimmo on his completion of the Child Car Restraint Type 1 Fitters Course. The Mayor reported that Council, in particular Shelley Cocks, in conjunction with Noel Nimmo, had conducted an afternoon child car restraint check session at the East Fremantle Football Club which had been well attended by East Fremantle residents.

106.2 Ms G Keely

The Mayor advised of an email from Ms Keely thanking Council staff for attending promptly to the damaged paving in front of 54 King Street as she has a disabled son who had found the path difficult to negotiate.

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

Nil.

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

Nil.

109. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

110. FINANCE**110.1 Monthly Financial Activity Statement for Period Ending 31 March 2011***By John Roberts Executive Manager Finance & Administration on 21 April 2011***PURPOSE**

To provide financial information to the Council in the form of a financial activity statement for revenues and expenditures, both operating and capital, in accordance with statutory requirements.

BACKGROUND

The monthly Financial Activity Statement for the period ending 31 March 2011 is appended and includes the following:

- Financial Activity Statement
- Notes to the Financial Activity Statement including schedules of investments and rating information.
- Capital expenditure Report
- Capital Works Status Report – prepared by the Operations Manager

ATTACHMENT

The attached Financial Activity Statement is prepared in accordance with the amended Local Government (Financial Management) Regulations 1996; with additional material to

provide Council with easy to understand financial information on Council activities undertaken during the financial year.

REPORT

Introduction/Comments

The following is summary information on the attached financial reports:

The March 2011 year to date Financial Activity Statement report shows an overall actual surplus of \$2,771,488 compared to the year to date budget of \$1,405,803 a favourable variance of \$1,365,685.

Revenue and expenditure variances are generally timing in nature. The surplus is large at the start of the year as the full year rate revenue is brought to account. This surplus will decrease in the remaining months of 2010/11 as it is used to fund expenditure providing works and services.

The overall favourable variance of \$1,365,685 can be analysed as follows:

- The YTD actual Operating Revenue is \$7,304,191 compared to the YTD budget of \$7,276,361, a favourable variance of \$27,830 (-0.38%). The variance is due primarily to a combination of higher than anticipated interest on investments, parking revenues and an earlier than anticipated receipt of the Preston Point Road improvement grant income, offset by a delay in receiving Lotterywest and HACC grants.
- The YTD actual Operating Expenditure is \$5,315,666 compared to the YTD budget of \$5,586,938, a favourable variance of \$271,272 (-4.85%). The variance is due primarily to lower than anticipated expenditure on operating projects, administration costs, and drainage maintenance.
- The YTD actual Capital Expenditure is \$828,472 when compared to the YTD budget of \$1,929,265 a favourable variance of \$1,100,793 (-57.0%). The variance is due to the timing of undertaking footpath, drainage, kerbing and building works offset with the completion of building projects and installation of bus shelters funded in 2009/10

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 a periodic basis. These policies are used in the preparation of the statutory reports submitted to Council.

Strategic Plan Implications

Nil

Financial/Resource/Budget Implications

The March 2011 Financial Activity Statement shows variances in income and expenditure when compared with budget estimates.

Conclusion

The attached Financial Activity Statement for the period 1 July 2010 to 31 March 2011 be presented to the Council for information.

RECOMMENDATION

That the Financial Activity Statement for the period ending 1 July 2010 to 31 March 2011 be received.



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Cr Olson – Cr Collinson**That the Financial Activity Statement for the period ending 1 July 2010 to 31 March 2011 be received.** CARRIED

110.2

Review of Local Laws – Outcome of Submissions Period*By John Roberts, Executive Manager Finance and Administration***PURPOSE**

To advise Council of the outcome of a review of the Town's local laws pursuant to Section 3.16 of the Local Government Act 1995.

BACKGROUND

Section 3.16 of the Local Government Act requires local governments to review their local laws every eight years, and provides that:

- “(1) Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.
- (2) The local government is to give Statewide public notice stating that —
 - (a) the local government proposes to review the local law;
 - (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
 - (c) submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.
- (2a) A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.
- (4) When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.

** Absolute majority required.”*

At its meeting held on 16 November 2010, Council resolved to initiate the review. Notices as required by s3.16 were duly given via Statewide and local public notice.

No submissions were received at the close of the 6 week period specified by s3.16 (2), which ended on 7 February 2011.

REPORT

As advised in the previous report to Council, the bulk of the Town's 21 local laws still in place were adopted in 2001, with some being amended in 2004.

The majority are based on models produced by the WA Local Government Association. Since 2001, WALGA has issued two major updates to its models, the most recent in June 2010.

A project to determine if the required statutory review could be dealt with by repealing and updating them at the same time was initiated but then put 'on hold' following the

State Government's initiation of their merger based local government reform agenda in February 2009.

As also noted in the previous report to Council, in a perfect world all the Town's local laws could be repealed and replaced with the latest versions of the WALGA models. However, as with all projects that have significant resource implications, this should be considered in the context of any other issues that the Town may be dealing with.

A number have been superseded by later local laws or changes to legislation, particularly the Local Government Act and its associated raft of Regulations. Of the remainder, most are still reasonably effective. The 2005 and 2010 updates of the model WALGA local laws are essentially refinements of the 'base' model local laws that were used to develop the Town's 2002 and 2004 local laws.

Under these circumstances, it was felt that the most appropriate approach for the Town to take was simply to:

- Undertake the 8 year review as required by s3.16;
- Subject to the outcome of that review, narrow the scope of any changes to local laws to simply deal with those only those areas where problems may have arisen, and update any penalty provisions; and
- Repeal a number of outdated local laws.

Upon adoption of the recommendation below, the review as required by s3.16 will be complete.

The review highlighted that the Town has a number of out of date local laws that should now be repealed. It is intended to present these under a separate report to Council in June 2011.

Relevant Council Policies

Nil.

Strategic Plan Implications

Nil, although a reduction in the numbers of local laws administered by the Town will contribute to administrative efficiency.

Financial/Resource/Budget Implications

The Town's 2010/11 Budget contains provision to undertake a review of its local laws to ensure they remain consistent with other legislation and up to date.

Discussion

The Town has now complied with the requirements of s3.16 which requires a review every 8 years of local laws.

Some local laws should also be amended in due course to ensure (for example) penalties are kept up to date. This will be dealt with at a later stage.

RECOMMENDATION

That:

1. The outcome of the review of the Town's local laws under s3.16 of the Local Government Act 1995 be received;
2. A report on an Amendment Local Law and a Repeal Local Law is presented to Council in June 2011.

Cr Olson – Cr Nardi

That:

1. **The outcome of the review of the Town's local laws under s3.16 of the Local Government Act 1995 be received;**
2. **A report on an Amendment Local Law and a Repeal Local Law is presented to Council in June 2011.**

CARRIED



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- 110.3** **Budget Reallocation – Raceway Park Playground**
By John Roberts, Executive Manager Finance and Administration on 27 April 2011

PURPOSE

To request Council to reallocate budget funds to enable the completion of the children's playground upgrade works at Raceway Park.

BACKGROUND

Council included in the 2010/2011 Adopted Budget a strategic capital works initiative to upgrade the children's' play equipment at Raceway Park. The budget amount was \$30,000.

REPORT

As part of the 2010/2011 adopted budget, Raceway Park was listed for an upgrade to the play area. Budget funding for these works was \$30,000.

This was based on a Councillor request which involved a "ball park" figure, ie being a figure which did not involve any officer's report on the actual costs likely to be involved.

Subsequently an inspection of the existing equipment in the two play areas revealed some of the equipment was in such a condition as to require replacement and that the cost to provide the new play equipment, shade sails, edge treatments and soft fall sand to two of the play areas at Raceway Park will be well in excess of the budgeted funds. The total cost for the additional work is estimated at \$39,000. It is proposed to fund the works with a budget reallocation of funds from the account E11665 (Community Events).

Relevant Council Policies

Nil.

Strategic Plan Implications

Consistent with Key Result Area initiative: 2.7 Continue to develop innovative children's playgrounds and upgrading of sporting and recreational facilities.

Financial/Resource/Budget Implications

A budget reallocation of \$39,000 is required to complete the project.

RECOMMENDATION

That Council approve:

1. the completion of the playground equipment upgrade at Raceway Park.
2. this budget reallocation to complete the project:
 - debiting account E11665 \$39,000
 - crediting account E11228 \$39,000.

Absolute Majority Resolution Required

Cr Olson – Cr Rico

That Council approve:

1. the completion of the playground equipment upgrade at Raceway Park.
2. this budget reallocation to complete the project:
 - debiting account E11665 \$39,000
 - crediting account E11228 \$39,000

CARRIED
ABSOLUTE MAJORITY

111. HEALTH & GENERAL PURPOSES (CONTINUED)

- 111.1** **Proposal for demolition of the disused playgroup building at Locke Park**
By Shelley Cocks Principal Environmental Health Officer on 28 April 2011

PURPOSE

The purpose of this report is to inform Council of relevant issues in regard to the proposed demolition of the disused playgroup building.



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BACKGROUND

The disused playgroup building has been vacant since 1998 following the relocation of the East Fremantle Playgroup from this building to their current tenancy at Sumpton Green. A report on file cites a number of concerns with the building including rusted gutters, inadequate security, no disabled access, unsafe steps, inadequate kitchen cupboards and no hot water.

The then playgroup cited the following reasons for planning to move from this building and they included:

- The steps to the building were considered unsafe
- Insufficient internal space for the group
- Insufficient storage space
- Not of a sufficient standard for a playgroup
- Insufficient parking.

An earlier inspection of the building by Operations Manager Ken Dyer, Principal Building Surveyor Paul Busby and Principal Environmental Health Officer Shelley Cocks revealed the following:

- Broken, cracked and damaged internal asbestos panels
- A large structural crack on the rear brick wall which adjoins the retaining wall between the playgroup building and Sumpton Green
- Toilets were found to be non-operational and connected to a failed septic tank system
- Building is not connected to sewer
- Building is not connected to water
- Building is not connected to electricity
- Building is small and not suitable for use as a public building
- The only parking available is street parking along Moss Street which is currently fairly well utilised.

DISCUSSION

Changes to the Building Code of Australia since 1998 means that the building does not comply with applicable standards, particularly in respect of disability access. The building is constructed in an elevated manner providing one access/egress point up a flight of steps. The floor height of the building would require an extensive access ramp, an option which was considered briefly back in the 90's.

The building would now require a disability access toilet to be installed and disability compliant doorways, which are wider than those currently present.

The building would also not comply with the Health (Public Buildings) Regulations 1992 as it does not comply with the Building Code of Australia. All public buildings can only operate following issue of a "Certificate of Approval" and this building does not currently have a Certificate.

It was estimated by the Operations Manager and the Principal Building Surveyor that the cost of renovating this building and achieving compliance with the applicable standards would probably equate to the cost of a replacement building. Simply making the building habitable in it's current form would cost about \$60,000.

The building is an eyesore and detracts from the ambience of Locke Park. It is boarded up to reduce vandalism, however the external walls are continually subject to graffiti vandalism. Council's contractors have painted over the external walls on an approximate monthly basis over the past 5 years at a considerable cost. Given the circumstances described in the report it is concluded the most feasible option is to demolish the building.

The CEO has a delegated authority to approve the issue of demolition licences however considered it more appropriate this be a decision of elected members.



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In the event of elected member approval of demolition, Council's Principal Environmental Health Officer arranged quotations from three demolition contractors to have the building demolished and they ranged from \$11,000 to \$7,150 (Inc GST). The most economical quote was from Groundworks Demolition.

In conjunction with Ken Dyer it was determined where temporary access can be arranged from Moss Street to facilitate removal of the debris and rubble. Council depot staff would then be able to restore the retaining wall currently at the back of the building and restore the limestone to attain a visually pleasing finish.

Although new quotes may have to be obtained, due to the time elapsed since the original quotes were obtained, it is considered \$10,000 would be a sufficient allocation.

\$10,000 was an amount previously allocated for works in respect of the Leeuwin Scout building (A/c E11606), which have been carried out under maintenance funding and are thus available for other purposes.

RECOMMENDATION

That Council approve demolition of the former playgroup building in Locke Park and allocates \$10,000 for this purpose by:

- Crediting account E11606 \$10,000
- Debiting \$10,000 to an account newly created for this purpose.

Absolute Majority Resolution Required

Cr Olson – Cr de Jong

That Council approve demolition of the former playgroup building in Locke Park and allocates \$10,000 for this purpose by:

- **Crediting account E11606 \$10,000**
- **Debiting \$10,000 to an account newly created for this purpose.**

CARRIED
ABSOLUTE MAJORITY

Mr Vaughan, the Executive Manager Finance & Administration and Operations Manager left the meeting at 8.45pm.

112. ELECTED MEMBER DELEGATES' REPORTS**112.1 Cr Rico – Library Advisory Committee**

Cr Rico presented the following report:

“Local Government Increasing Accessibility Library Initiative”

\$1 million has been provided by the Department of Families, Housing, Community Services and Indigenous Affairs to provide audio book players (audio read navigators) to Australian public libraries across the country. This initiative will benefit people unable to read print due to vision impairment, a physical disability or a learning disability.

Providing access to material (books, newspapers etc) in a range of alternative formats plays a vital role in enabling the independence of people with print disability and enhancing their engagement in the community.

The national launch of the initiative by Senator Jan McLucas was held at the Fremantle City Library of Fremantle and East Fremantle on Monday 18 April 2011.

The funding will include training for library staff to help almost 20% of the Australian population unable to read standard print information.

The Federal Government has provided a grant to enable the Fremantle/East Fremantle Library to purchase 10 new audio devices for its library service.

During 2009-10 – nearly 10,000 audio books were borrowed from the Fremantle/East Fremantle Library.

The Audio Read Navigators are purpose-built, battery operated, digital audio players which can be held in the hand. Several audio books will be able to be loaded at a time to a single reader.

After library staff download titles to the device, users can easily move between books and sections of books.

Cr Maria Rico”

Cr Martin – Cr Wilson
That Cr Rico’s report be received.

CARRIED

113. REPORTS OF CHIEF EXECUTIVE OFFICER

113.1 **Constitutional Recognition of Local Government** *By Stuart Wearne, Chief Executive Officer, on 28 April 2011*

BACKGROUND

Australian local government was not an integral part of the process, or the considerations, which led to Federation and consequently was not given any constitutional recognition within the Federal Constitution.

Thus all local authorities in Australia derive their powers and functions exclusively from state and territory legislation.

The process of formulating such legislation, and related issues, has at times given rise to debate on the granting of Constitutional recognition for local government in Australia, with referendums on such recognition having previously been put before the voters in 1974 and 1988. Unfortunately however both referendums were defeated.

Whilst local government is not mentioned in the Commonwealth constitution, a number of states have explicitly recognised the local government sector in their own constitutions.

Western Australia gave constitutional recognition to local government in 1979.

Nevertheless it is arguable that without the backing of the Australian constitution, Australian local governments cannot, in a legal and constitutional sense, be truly regarded as legitimate democratic entities.

In previous annual reports to Council, the CEO has written on other potential advantages of recognising local governments in the Australian Constitution. One key advantage referred to was that it would remove any question of the rights of local government to receive direct funding from the federal government. This proved to be perceptive because local government’s ability to do so was placed in serious doubt by the outcome of a 2009 challenge by a Mr Bryan Pape with respect to the validity of the Commonwealth economic stimulus package, which, as elected members will be aware, all local governments financially benefitted from. Although Mr Pape’s challenge was defeated in the High Court, the judgement was seen by many legal experts to have effectively narrowed the Federal Government’s power to act in this way, arguably restricting its efforts to situations of national or international emergency, which the global financial crisis was construed as. Clearly regular payments to local governments would have normal difficulty in meeting this threshold requirement. Therein lies the importance of achieving recognition for local government in the Australian Constitution.

Local government in WA already receives, on average, approximately \$90 million in direct federal funding through the Roads to Recovery program and the Community

Infrastructure Fund. Whilst the Town of East Fremantle receives little of this funding, the importance of this funding to the lives of people in many West Australian communities is significant.

Not only does direct federal funding benefit local communities, it effectively benefits the State Government too, by enabling a greater spend of the national tax take within WA – extra funds that would not come to WA if it wasn't for the direct local government funding programs that make it possible.

During 2009/10, the Australian Local Government Association (ALGA) focused advocacy on the issue around national political forums, political parties and key influential academics, while State Associations built up state profiling campaigns to improve the image and perception of their local government jurisdictions.

The ALGA Board further refined the national position in 2010 to focus specifically on financial recognition and the WALGA position was also subsequently aligned to this focus.

ALGA has urged all councils to pass resolutions prior to the National General Assembly in June, at which the Minister for Regional Australia, Regional Development and Local Government, Simon Crean, is expected to make a presentation. Minister Crean has been tasked with responsibility for the local government referendum, and the Assembly will provide a timely opportunity to demonstrate the level of local government support to Minister Crean and to all parties.

DISCUSSION

Whilst the Federal Government has committed to a referendum on Constitutional recognition for local government, their willingness to do so in any sort of reasonable time frame will be heavily influenced by their perceptions of its likely success. To that end both ALGA and WALGA have, firstly, requested that all local governments formally resolve to support the conduct of the referendum.

Secondly, because a major factor in the government's perceptions will be the degree to which the debate reflects broad community engagement, ALGA and WALGA believe it is important that local community support is marshalled to ensure that community ownership is injected into the campaign, on the basis that if the campaign is seen purely as one being run by and for the local government system, then success will be difficult to achieve.

To that end WALGA have requested that the Town develops a local level campaign in support of the national campaign, to inform the local community and garner its support.

The CEO's recommendations do not reflect this request, partly due to current resource issues and higher priorities. More importantly however, the CEO also believes it would be premature to develop a campaign in relation to a referendum proposed to be held at the time of a Federal election in 2013. Thus the CEO believes it is a matter which should be reconsidered at a later date.

RECOMMENDATION

That the Town of East Fremantle:

1. express support for the ALGA and WALGA campaigns for the Constitutional recognition of local government
2. call on the federal government to conduct a referendum at the 2013 federal election with the objective of achieving the Constitutional recognition of local government.
3. sends letters to local and other relevant State and Federal members of Parliament advising them of the Council resolution.
4. considers the development and implementation of a local level campaign, in 2012.

Mayor Ferris – Cr de Jong**That the Town of East Fremantle:**

- 1, **express support for the ALGA and WALGA campaigns for the Constitutional recognition of local government**
 2. **call on the federal government to conduct a referendum at the 2013 federal election with the objective of achieving the Constitutional recognition of local government.**
 3. **sends letters to local and other relevant State and Federal members of Parliament advising them of the Council resolution.**
 4. **considers the development and implementation of a local level campaign, in 2012.**
- CARRIED

113.2 Local Government Reform Program

The CEO provided an update on the issue of local government reform, reading an article where Minister Castrilli again refers to local governments who have agreed to amalgamation as “displaying strong leadership in recognising the positive impact of reform” (in the case of City of Geraldton-Greenough and Shire of Mullewa) whereas in the case of Shire of Perenjori rejecting a proposed amalgamation with Shires of Mingenew, Morawa and Three Springs, this was “a lost opportunity for the councils involved and the impact would adversely affect the future of the broader community which would not reap the benefits of reform”.

The CEO tabled a private members bill, the Local Government Amendment (Regional Subsidiaries) Bill 2010, which had been introduced into the Legislative Council in November 2010 by the Hon Max Trenorden MLC and noted the following:

- The purpose of the Bill was to amend the Local Government Act 1995 to enable local government to establish arrangements for sharing local government functions by the formation of regional subsidiaries in way that was consistent with the regional subsidiary model that operates successfully in South Australia. The Bill will allow two or more local governments arranging to perform a function jointly to form a corporate entity known as a regional subsidiary to perform that function.
- The new provisions were additional to, and would not affect, the existing provisions relating to regional local governments. They would also not prevent local governments from acting on behalf of each other or from performing functions jointly without forming a regional subsidiary.
- The regional subsidiary model had the flexibility for all local governments across the State and not just in the more remote areas of the State. It was a model that could be used successfully in the metropolitan area.

The CEO advised that he had contacted WALGA and was advised that they supported the proposed Bill.

The CEO undertook to provide elected members with a copy of the Bill.

The CEO advised that the Hon Max Trenorden MLC was seeking the support of councils in writing to members of parliament representing their residents in support of his efforts in providing local government across the State with a means of better serving their communities.

Elected members indicated support of Mr Trenorden’s request.

113.3 Gerard McCann – Locke Park

The CEO circulated a letter from Gerard McCann proposing the redevelopment of Locke Park to “provide a more modern, vibrant and aesthetically inspiring park which co-exists with the heritage fabric” and hoping this could be considered in the context of the forthcoming budget.

The CEO advised that he had written to Mr McCann informing him that that Council’s budget deliberations for 2011/2012 were almost complete, however, he would submit the proposal to tonight’s Council meeting for elected member consideration. The CEO



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believed that with the demolition of the former playgroup building being approved earlier at tonight's meeting, there was now an opportunity to provide playground equipment and other park facilities in this location, facing Moss Street.

Elected members agreed to give consideration to the improvement of Locke Park in due course.

113.4 Planning Development Panels

The CEO read an article from an ALGA newsletter which noted that the NSW state government, in accordance with an election commitment, was scraping Part 3A of the Planning Act, which was essentially the same legislation as has been used for WA's Development Assessment Panels.

Outcomes from NSW's version of the DAPs had been such that the whole approach had become electorally unpopular.

114. CONFIDENTIAL BUSINESS**114.1 Royal George Hotel**

Cr Olson – Cr Rico

That this matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(d) as it relates to legal advice. CARRIED

The CEO provided a confidential report on the current situation on relation to the Royal George Hotel. **CONFIDENTIAL ATTACHMENT**

Cr Olson – Cr Collinson

That the CEO's report be received. CARRIED

114.2 CEO's Performance Appraisal

Cr Olson – Cr Wilson

That this matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(a) as it relates to a matter affecting an employee. CARRIED

By virtue of the fact this report relates to the CEO's contract of employment, the author declares a financial interest in the matter, pursuant to Clause 5.70 of the Local Government Act.

The Chief Executive Officer and Minute Secretary left the meeting at 9.30pm.

Elected members considered a confidential report on this matter.

CONFIDENTIAL ATTACHMENT

Mayor Ferris – Cr de Jong

That pursuant to Clause 9 of the CEO's Contract of Employment, that Council determine the CEO's performance as "often exceeds expectations" for 2009 and "often exceeds expectations" for 2010. CARRIED

115. OPENING OF MEETING TO PUBLIC

Cr Rico – Cr Collinson

That the meeting be re-opened to members of the public at 10.39pm. CARRIED

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

Nil.

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

Nil.



118. CLOSURE OF MEETING

There being no further business, the meeting closed at 10.40pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **3 May 2011**, Minute Book reference **95. to 118.** were confirmed at the meeting of the Council on*

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Presiding Member