



CITY OF BAYSWATER

MINUTES

OF THE

SPECIAL MEETING

OF COUNCIL

15 December 2005

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CITY OF BAYSWATER

Minutes of the Special Meeting of the Bayswater City Council which took place in the Council Chambers, City of Bayswater, Administration Centre, 61 Broun Avenue, Morley on Thursday, 15 December, 2005.

1 OFFICIAL OPENING

The Chairperson, His Worship the Mayor CR KENYON, JP, welcomed those in attendance and declared the meeting open for the ordinary business of Council at 7:18 pm.

**2 RECORD OF ATTENDANCE, APOLOGIES, LEAVE OF ABSENCE
(PREVIOUSLY APPROVED)**

In Attendance

West Ward

Cr Terry Kenyon JP, Mayor
Cr Alan Radford
Cr Marlene Robinson

North Ward

Cr Ian McClelland, JP, Deputy Mayor
Cr Lou Magro
Cr Graham Pittaway, OAM

Central Ward

Cr Barry McKenna
Cr Victor Rosenberg
Cr Michael Sabatino

South Ward

Cr Terry Gaunt
Cr Sonia Turkington

Officers

Mr Mario J. Carosella	Chief Executive Officer
Mr Ted Budzinski	Director of Finance
Mr Bob Jarvis	Director of Administration & Community Services
Mr Martyn Glover	Director of Technical Services
Ms Francesca Lefante	Director of Planning and Development Services

Apologies

Nil.

Leave of Absence

Nil.

Observers

1 Press
9 Public
1 Deputation

3 PUBLIC QUESTION TIME

In accordance with Section 5.24 of the *Local Government Act 1995*, time is allocated for questions to be raised by members of the public.

<p>The following question was submitted in writing: (Questions reproduced as written)</p>
--

1 Mayor Tina Klein, Town of Bassendean

Are the Mayor and Councillors of the City of Bayswater aware that the Town of Bassendean's submission to the Review into Structural and Electoral Reform will advocate nineteen key points outlined in the attached Executive Summary which can be further summarised as:

1. The Town of Bassendean is a successful and sustainable local government, well connected with its community and recognised for its effectiveness through high community satisfaction levels. There is no reason that this situation should not be sustainable into the future.
2. The Town submits that smaller well-resourced local governments should be the preferred model for local government into the future.
3. Initiatives such as resource sharing, regional cooperation and the appropriate utilisation of contracting out can ensure very high levels of financial effectiveness while maintaining local autonomy and the social benefits of smaller local government. The Town of Bassendean believes that any form of structural reform of local government in WA should emphasise these options rather than the disruptive option of large scale boundary change or amalgations.
4. The Town actively supports the role of regional local government in structural reform and believes there may be potential for other local governments to benefit from membership of an effective regional local government such as the Town of Bassendean does through the EMRC model.

His Worship the Mayor, Cr Terry Kenyon, JP, advised this item is open for discussion on tonight's Agenda.

A copy of the written questions and Council's written response is at [Appendix 1](#).

The following questions were asked verbally:

2 Mr Tony Green, Bayswater City Residents Association

I would like to bring to your attention that the public notice put in the Eastern Suburbs Reporter stated quite categorically that the Agenda for this meeting would be available on the 13 of this month. However, it was only available today, which is the 15 December, and it was only available without the attachments. I have brought this to your attention before, and the website should include the attachments.

His Worship the Mayor, Cr Terry Kenyon, JP, requested the Director of Administration and Community Services, Mr Bob Jarvis respond to this question.

Mr Jarvis advised that it was brought to his attention that there was a technical error with the posting of the Agenda to the website, however this problem was rectified as soon as possible.

A copy of Council's written response is at [Appendix 2.](#)

3 Mr John Williams, 54 Matthews Close, Noranda

Would like to request feedback from questions raised at the Ordinary Meeting of Council held on Tuesday, 13 December, 2005, and would like to query the legality of the Nursery located on Della Road.

His Worship the Mayor, Cr Terry Kenyon, JP, informed Mr Williams that as previously advised most of the required information has been obtained, however Council is still awaiting further feedback on some issues. As soon as all the information is acquired and can be collated a written response will be provided. .

A copy of Council's written response is at [Appendix 3.](#)

4 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

5 CONFIRMATION OF MINUTES

Nil.

6 DECLARATIONS OF INTEREST

In accordance with Section 5.60A and 5.65 of the Local Government Act 1995 the following disclosures of financial interest were made at the Special Council Meeting held on 15 December, 2005:

Nil.

In accordance with Section 5.60B and 5.65 of the *Local Government Act 1995* the following disclosures of proximity interest were made at the Special Council Meeting held on 15 December, 2005:

Nil.

In accordance with Clause 34C of the *Local Government (Administration) Regulations 1996* the following disclosure of interests affecting impartiality were made at the Special Council Meeting held on 15 December, 2005:

Nil.

7 URGENT BUSINESS

Nil.

8 PETITIONS

Nil.

9 DEPUTATIONS

COUNCIL RESOLUTION

At 8.13pm, CR BARRY MCKENNA, MOVED, CR LOU MAGRO SECONDED, that the doors be closed to the public to allow discussion of item 10.1.

CARRIED

SUSPENSION OF STANDING ORDERS

At 8.13pm, CR BARRY MCKENNA, MOVED, CR LOU MAGRO SECONDED that Standing Orders be suspended.

CARRIED

- 9.1 Administration Centre Upgrade - Appointment of Builder**
Location: 61 Broun Avenue, Morley
File No: PF/141
Officer: Chief Executive Officer and Director of Planning and Development Services
Refer: Item 10.1 - SCM 28.09.05
Item 10.1 - SCM 16.06.05
Item 7.1 - SCM 31.05.05

Mr Terry Holton from Holton Connor Architects was in attendance at 8.13pm in respect to item 10.1.

10 GENERAL BUSINESS**10.1 Administration Centre Upgrade - Appointment of Builder****Location: 61 Broun Avenue, Morley****File No: PF/141****Officer: Chief Executive Officer and Director of Planning and Development Services****Refer: Item 10.1 - SCM 28.09.05****Item 10.1 - SCM 16.06.05****Item 7.1 - SCM 31.05.05**

CONFIDENTIAL ITEM

Application

To consider:

1. The tenders submitted in response to the Request to Tender 55-2005 for the Major Additions and refurbishment of the City's Administration Centre at Broun Avenue, Morley;
2. Project management during the construction and refurbishment stages to ensure timely completion of the project;
3. Overall project timetable and financing; and
4. Consultant request for fees adjustment.

In accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting is closed to members of the public for this item as the following sub-section applied:

- (c) A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

COUNCIL RESOLUTION**CR GRAHAM PITTAWAY, OAM, MOVED, CR MICHAEL SABATINO SECONDED:****That:-**

1. in accordance with the provisions of the Local Government (Functions and General) Regulations 1995 Regulation 20 Part 1 & 2: Geo A Esslemont & Sons are to be chosen as the Preferred Successful Tender in accordance with Tender 55-2005 dated 29 November, 2005, for a maximum price of \$6,087,615.45 exclusive of GST to undertake the Major Upgrades of the City's Administration Centre.

2. in accordance with the provisions of the Local Government (Functions and General) Regulations 1995 Regulation 20 Part 1 & 2 the City enter into negotiations with Esslemont as the Preferred Successful Tender on alternative project staging programme and material costs.
3. the Mayor, Cr Terry Kenyon, JP, the Deputy Mayor, Cr Ian McClelland, JP, the Chief Executive Officer and the Director of Planning and Development Services with the City's Consultant Holton Connor be authorised to:-
 - a) enter into negotiations with Esslemont as the Preferred Successful Tender on alternative project staging programme and materials cost; and
 - b) finalise the tender with Esslemont where the tender price does not exceed \$6,087,615.45 (exclusive of GST).
4. a building contingency of \$250,000 to be allocated to the project for matters that arise during the course of construction.
5. a Project Control Group, in relation to the contract to construct the Administration Centre Upgrade at 61 Broun Avenue, Morley be established with delegated authority to:-
 - a) Oversee the project, make decisions on fitout details and construction matters;
 - b) Authorise the expenditure of the contingencies funds (\$250,000) and the purchase of loose furniture (\$513,000);
 - c) Report periodically to the Council on the status of the project; and
 - d) The Project Control Group comprises the following:-
 - Mayor, Cr Terry Kenyon, JP;
 - Deputy Mayor, Cr Ian McClelland, JP;
 - Chief Executive Officer, Mr Mario Carosella;
 - Director of Planning and Development Services, Ms Francesca Lefante; and
 - a representative from Holton Connor Architects.
6. A Project Working Group be established to deal with the day to day coordination of the contract to construct the Administration Centre Upgrade at 61 Broun Avenue, Morley, which will comprise the Director Planning and Development Services, the Project Manager/Project Superintendent and other technical Council Officers as required.

7. Where required in respect of urgent and unforeseen matters in order to progress the development in a timely manner the Chief Executive Officer and Director of Planning and Development Services be delegated authority to expend funds from the contingencies, up to an individual amount of \$10,000, and report back to the Project Control Group as appropriate.
8. The Director of Planning and Development Services be authorised to appoint a Clerk of Works on a part time contract basis for the duration of the construction.
9. Architects Holton Connor fee adjustment for the Administration Centre Upgrade be a total fixed fee of \$370,230.
10. Project savings to be negotiated for a minimum of \$200,000.

CARRIED

Cr Marlene Robinson left chambers at 8.25pm and returned at 8.29pm.

Cr Lou Magro left chambers at 8.31pm and returned at 8.33pm.

COUNCIL RESOLUTION

At 8.34pm CR IAN MCCLELLAND, JP, MOVED, CR VICTOR ROSENBERG SECONDED, that the doors be re-opened to the public.

CARRIED

RESUMPTION OF STANDING ORDERS

At 8.34pm CR IAN MCCLELLAND, JP, MOVED, CR VICTOR ROSENBERG SECONDED, that Standing Orders be resumed.

CARRIED

**10.2 Electoral Reform Submission to the Local Government Advisory Board
Review into Structural and Electoral Reform of Local Government in
Western Australia**

Attachments: [Submission on Electoral Reform by the City of Bayswater to the Local Government Advisory Board](#)
[Terms of Reference](#)

File No: 15.1.96

Officer: Chief Executive Officer /
Director of Administration and Community Services

Application

To seek Council's approval of a submission on electoral reform for Local Government to the Local government Advisory Board's Review for the State Government.

Background

On the 4 October, 2005, the Minister for Local Government and Regional Development announced that State Cabinet had approved for the Local Government Advisory Board to carry out a review of structural reform and electoral reform for Local Government in this State.

The terms of reference for this review are attached to this report as **Attachment 1**.

A submission on behalf of the City of Bayswater has been prepared for consideration by Council on the electoral reform component, and this draft submission is attached as **Attachment 2**.

The draft submission follows the same order as the terms of reference and seeks to make comment on each component. Councillors will need to consider their support for each comment, but the submission is also based on Council's September 2005 resolution "To pursue postal voting" as well as its frequently articulated view that there should be compulsory voting for local government elections.

The system that Bayswater uses to elect its Mayor has also been put forward as this Council's preference, but the comments about the alternative method are based on recent commentaries on local government by a variety of sources.

It was difficult to comment on preferential versus first past the post voting when it was to be considered at the same time as compulsory versus voluntary elections. The other two tiers of government have preferential voting for compulsory elections, and the draft submission suggest that preferential voting might well be an option if compulsory voting was achieved. In the absence of that change the submission supports first past the post.

Comment

The submission is brief, but covers each area under consideration. Council may choose not to make comment on some areas or change the submission. Unfortunately, this is the last opportunity for Council to consider this issue before the close of submissions later this month, and it is unlikely that any extension will be granted as the Local Government Advisory Board is required to complete its review and report to cabinet no later than the 10 February, 2006.

Council's 27 September, 2005, resolution "to pursue postal voting" is an important inclusion in the submission – suggesting that the City of Bayswater might adopt this method of conducting elections. Council needs to formally adopt this method prior to the 2007 Local Government Elections, and the consideration of electoral reform may well provide an opportune time to resolve the matter. Section 4.20 (4) of the *Local Government Act 1995* allows Council the option of specifying the number of elections it wishes to be conducted by the Electoral Commission including the option to resolve that all future elections be conducted in this manner. Written agreement of the Electoral Commissioner is to be received prior to the matter being resolved by Absolute Majority.

It should be noted that the West Australian Local Government Association has asked for copies of submissions from member councils, and will be preparing its own submission to the review.

A separate report on the structural reform part of the review is in this meeting's agenda for Council's consideration.

SUSPENSION OF STANDING ORDERS

At 8.50pm, CR BARRY MCKENNA, MOVED, CR LOU MAGRO SECONDED that Standing Orders be suspended.

CARRIED

Officer's Recommendation

That:

1. the submission attached to this report be approved as the City of Bayswater's submission to the Local Government Advisory Boards Review of Structural and Electoral Reform of Local Government in Western Australia, and that a copy of the submission be forwarded to WALGA; and
2. Council consider postal voting as its preferred method.

Council considered this item and changed the Officer recommendation because it felt that the submission should seek a single method of election for all three tiers of government. The submission would continue to support the election of Mayor or President by the Councillors.

COUNCIL RESOLUTION

CR MARLENE ROBINSON MOVED, CR BARRY MCKENNA SECONDED:

That the amended submission which seeks a single mode of election for all three tiers of government and support the election of Mayor or President by the Councillors, be approved as the City of Bayswater's submission to the Local Government Advisory Boards Review of Structural and Electoral Reform of Local Government in Western Australia, and that a copy of the submission be forwarded to WALGA.

CARRIED WITH AN ABSOLUTE MAJORITY

10.3 Structural Reform - Town of Bassendean, Lightning Swamp / Noranda Regional Sporting Complex

Attachments: [City of Bayswater Local Government Authority Boundary Existing LGA and proposed amalgamation with Town of Bassendean Existing LGA and proposed amalgamation with portion of City of Swan Issues Paper](#)

File No: PF/167 : PF/100

Officer: Chief Executive Officer

Application

For Council to consider making a structural reform submission to the Local Government Advisory Board, which is due on Friday, 23 December, 2005, to comprise a submission on the Town of Bassendean and another on Lightning Swamp / Noranda Regional Sporting Complex.

Background

The Minister for Local Government and Regional Development has written to all Councils announcing that a study of structural and electoral reform in Local Government will be carried out by the Local Government Advisory Board. The Board has been given the deadline of 10 February 2006 to report to the Minister. Submissions and public comments from Council's and the public will be received by the Board until 23 December 2005.

The Electoral Reform Report will be dealt with under a separate report to Council.

A paper entitled "Local Government Structural and Electoral Report in WA - Ensuring the future sustainability of Communities", which will form the basis of the Council's response due to the Board on Friday, 23 December, 2005, is attached.

The Bassendean Chief Executive Officer has advised the Bayswater Chief Executive Officer that Bassendean have engaged a consultant to prepare their submission to the Local Government Advisory Board, therefore it would be appropriate for the City to make its own submission to the Board.

Comment

This report requests Council approval to draft and approve the following reports:

- a. Town of Bassendean – population 14,175
- b. Lightning Swamp / Noranda Regional Sporting Complex – population nil.

and to engage a consultant to assist the Chief Executive Officer and Directors in making a submission, which is due to the Board by Friday, 23 December, 2005.

Unfortunately, due to the short notice given by the Minister on this submission, Council may wish to delegate the approval of the submissions to the Local Government Advisory Board, His Worship the Mayor and two (2) Councillors.

Officer's Recommendation

That:

1. Council make a submission, due to the Local Government Advisory Board on Friday, 23 December, 2005, on:
 - a) Town of Bassendean – population 14,175 (as per detailed map attached); and
 - b) Lightning Swamp / Noranda Regional Sporting Complex – population nil.
2. Council approve a Working Party consisting of His Worship the Mayor and two (2) Councillors to approve the final submissions to the Local Government Advisory Board.

Council considered this item and changed the Officer's recommendation because it believed that Bassendean and Bayswater residents had not had the opportunity for any input into the debate, and Bassendean's statement on the structural reform process should be taken into consideration.

COUNCIL RESOLUTION**CR MARLENE ROBINSON MOVED, CR IAN MCCLELLAND, JP, SECONDED:**

That:

1. Council make a submission, due to the Local Government Advisory Board on Friday, 23 December, 2005, on:
 - a. Town of Bassendean – population 14,175 (as per detailed map attached); and
 - b. Noranda Regional Sporting Complex / Lightning Swamp and the adjoining residential area extending west to Alexander Road.
2. Council approve a Working Party consisting of His Worship the Mayor and two (2) Councillors to approve the final submissions to the Local Government Advisory Board, with the committee giving close consideration to the document provided by the Town of Bassendean.

CARRIED**RESUMPTION OF STANDING ORDERS****At 9.35pm CR IAN MCCLELLAND, JP, MOVED, CR BARRY MCKENNA SECONDED, that Standing Orders be resumed.****CARRIED**

COUNCIL RESOLUTION

At 9.35pm, CR IAN MCCLELLAND, JP, MOVED, CR ALAN RADFORD SECONDED, that the doors be closed to the public to allow discussion of item 10.4.

CARRIED

COUNCIL RESOLUTION

CR ALAN RADFORD MOVED, CR MARLENE ROBINSON SECONDED that item 10.3 be recommitted to allow Council to appoint members to the Working Party.

CARRIED

COUNCIL RESOLUTION

CR BARRY MCKENNA MOVED, CR MICHAEL SABATINO SECONDED that resolution of Item 10.3 be re-adopted as follows:

That:

1. Council make a submission, due to the Local Government Advisory Board on Friday, 23 December, 2005, on:
 - a. Town of Bassendean – population 14,175 (as per detailed map attached); and
 - b. Lightning Swamp / Noranda Regional Sporting Complex and the adjoining residential area extending to Camboon Road.
2. Council approve a Working Party consisting of His Worship the Mayor, Cr Terry Kenyon, JP, the Deputy Mayor, Cr Ian McClelland, JP and Cr Barry McKenna to approve the final submissions to the Local Government Advisory Board, with the committee giving close consideration to the document provided by the Town of Bassendean.

CARRIED

SUSPENSION OF STANDING ORDERS

At 9.40pm, CR IAN MCCLELLAND, JP, MOVED, CR MARLENE ROBINSON SECONDED that Standing Orders be suspended.

CARRIED

10.4 Provision of Tender and Quotation Information - Cr Michael Sabatino

File No: 20.2

Officer: Chief Executive Officer

CONFIDENTIAL ITEM

Application

To inform Council of a request from an Elected Member to obtain information regarding quotations, tenders and contracts in excess of \$10,000 that have been actioned by the City of Bayswater since 30 June, 2005.

In accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting is closed to members of the public for this item as the following sub-section applied:

- (c) A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

RESUMPTION OF STANDING ORDERS

At 10.00pm CR ALAN RADFORD MOVED, CR IAN MCCLELLAND, JP, SECONDED, that Standing Orders be resumed.

CARRIED

COUNCIL RESOLUTION

CR TERRY KENYON, JP, MOVED, CR BARRY MCKENNA SECONDED:

That the information sought by Cr Michael Sabatino not be provided by the Chief Executive Officer, and if Cr Michael Sabatino has any evidence of improper activities or corruption then he should report them immediately to the relevant authorities.

CARRIED

11 CLOSURE

**THERE BEING NO FURTHER BUSINESS TO DISCUSS THE CHAIRPERSON,
CR KENYON, JP, DECLARED THE MEETING CLOSED AT 10.03 PM**