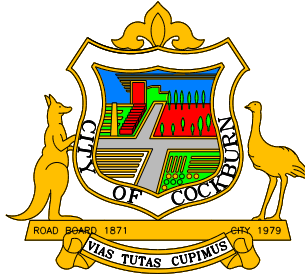


CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

**FOR
TUESDAY 18 AUGUST 1998**

CITY OF COCKBURN

SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 18 AUGUST 1998 AT 7:30 P.M.

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CITY OF COCKBURN

AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 18 AUGUST 1998 AT 7:30 P.M.

1. APPOINTMENT OF PRESIDING MEMBER [IF REQUIRED]

2. PUBLIC ADDRESS SESSION

3. REQUEST FOR LEAVE OF ABSENCE

Nil

4. CONFIRMATION OF MINUTES

4.1 (OCM8/98) - Ordinary Meeting of Council - 21/7/98

4.2 (OCM8/98) - Special Meeting of Council - 28/7/98

4.3 (OCM8/98) - Special Meeting of Council - 3/8/98

5. APOLOGIES AND LEAVE OF ABSENCE

Nil

6. ADDITIONS TO THE AGENDA

7. DEPUTATIONS

Nil

8. COUNCIL MATTERS

8.1 (OCM8/98) - Strategic & Policy Committee Report - 4/8/98

8.2 (OCM8/98) - Community Development Committee Report - 11/8/98

8.3 (OCM8/98) - Packham Urban Development Area - Department of Local Government Audit of Payments by Council (9235) (RS)

RECOMMENDATION

That Council resolve to:

- (1) receive the advice from the Department of Local Government as per their letter dated 17th July 1998;
- (2) request the Department of Local Government to engage an independent consultant to conduct an audit of monies paid by Council in relation to the Packham Urban Development Area in accordance with the agreed terms of reference;
- (3) advise the Department that we do not require to nominate a liaison for the purposes of appointing a Consultant;
- (4) transfer \$8,000 from Councillors Conference Expenses Account 110290 to provide for the cost of the independent audit.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

At the Adjourned Ordinary Council Meeting held on the 22nd June 1998, Council resolved:

- (1) to receive the report from the Department of Local Government entitled "Audit of Monies Paid by Council in Relation to the Packham Development Area", dated May 1998, the legal advice from Council's Solicitor McLeod & Co dated 16 February 1998 and 29 May 1998 and Urban Focus' responses dated 23 December 1997 and 30 March 1998;
- (2) all Councillors be provided with the following:
 - a) Correspondence regarding the \$63,700 payment from Urban Focus to the Council;
 - b) The Council resolution regarding the Packham Development Area dated 6 June 1998;
 - c) The Structure Plan and the Structure Plan Report for that area;
 - d) The drainage scheme and the proposals regarding collections to the Packham Development Drainage Trust Fund; and
 - e) Schedule showing the 20A and 20C contributions which is an annexure B to the Deed as prepared by McLeod & Company under the letter dated 22 June 1998 but to which that annexure is not attached.
- (3) Council advise the Department of Local Government that it is not satisfied with the Audit Report and request it address the matter further to fully deal with the questions raised and report back to Council as a matter of priority;
- (4) the Chief Executive Officer, Deputy Mayor Battalis, Cllr Ostojich, Cllr Howlett and Cllr Pecotic settle the terms of reference for the appropriate letter to be forwarded to the Department of Local Government; and
- (5) the matter be referred back to the next Strategic and Policy Committee meeting.

Submission

In a letter dated 17th July, the Department of Local Government has replied:

"I refer to your letters of 23 June and 3 July 1998 in which you advise of Council's reaction to the Departmental report on the above issue and your provision of additional terms of reference for a continuation of the audit.

I note your Council's concerns on the issue and if more work is to be undertaken I am of the view that the Department should continue to have a significant involvement. An objective outside party running the ongoing audit would overcome any problems with public perception on this issue.

At this time Departmental resources are such that there is no officer available to undertake a further audit. I am of the view that there are a number of independent consultants who have the qualifications and experience to undertake the project and I am prepared to provide a senior Departmental manager who will be responsible for appointing and supervising the consultant.

Following the further analysis I would expect the manager to contribute advice to the consultant on possible solutions to your identified difficulties in this area.

The City of Cockburn will have to meet the costs of the consultant. If you require it, the Department will liaise with your nominee(s) on all aspects of the appointment of that consultant.

I defer comment on your terms of reference until I hear from you on the proposal to appoint an independent consultant."

Report

Resolutions numbered (1) and (2) of Council's decision of the Adjourned Ordinary Meeting held on the 22nd June 1998, were addressed at the SPC Meeting held 7th July and subsequently endorsed by Council on 21st July.

In accordance with resolutions numbered (3) and (4), the appointed Councillors and the CEO settled the terms of reference and a letter was sent to the Department of Local Government on the 3rd July 1998.

All Councillors were provided with a copy of the draft letter for comment.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The period of consultancy to complete the audit is expected to take 1-2 weeks at a cost of between \$70-\$100 per hour. No provision is included in the budget for funding of up to \$8,000 for this item.

9. ADMINISTRATION

9.1 (OCM8/98) - Southern Metropolitan Regional Council - Member Representation (RWB) (4904)

RECOMMENDATION
That Council resolve to appoint Cllr as its representative to the Southern Metropolitan Regional Council with Cllr as the Deputy Member for the period 19th August 1998 to 30th April 1999.

COUNCIL DECISION

Background

The South West Regional Waste Management Council was formed in January 1992. Its members are the local governments of Canning, Melville, East Fremantle, Fremantle, Cockburn, Kwinana and Rockingham.

The Regional Council was set up to develop long term strategies for waste management. It recognised that landfills have a limited life and other waste minimisation initiatives should be used.

The constitution only allowed the Regional Council to participate in "research and planning". It did not have the power to collect, process or dispose of waste.

In 1996, member councils agreed the time had come to look at waste processing and waste minimisation more seriously. Reports showed that the regional facilities were probably the only way the objectives could be met.

Legal advice was sought on how to amend the constitution to allow the Regional Council to carry out the proposed works and developments. The advice received was that it could be easier to write a new agreement.

Accordingly, John Woodhouse, Solicitor, wrote a new agreement. A draft copy of the agreement was presented to this Council in April 1997.

The most important feature was that the Regional Council is now able to implement the removal, processing, treatment and disposal of waste for the benefit and on behalf, if requested, of the participating Councils.

After many months, the agreement was signed by all Councils.

On the 30th June 1998, the new organisation Southern Metropolitan Regional Council was officially launched.

The delegates to the South West Regional Waste Management Council have been:

Clr Howlett	January 1992 to August 1994
Clr Battalis	August 1994 to September 1994
Clr Lees	September 1994 to May 1995
Clr Lees	May 1995 to May 1996
Clr Lees	May 1996 to May 1997
Clr Lees	May 1997 to date

Mayor Grljusich has been and is the Deputy.

Submission

A letter has been received from the Southern Metropolitan Regional Council stating:

"I advise that the new Establishment Agreement for the Southern Metropolitan Regional Council has now taken effect.

To date, only the Cities of Melville and Canning have formally resolved and advised of their nominated elected representatives to the SMRC under this new Establishment Agreement.

Please note that in nominating your Council's representative the tenure of members of the Regional Council continues until the member ceases to be a member of the participant Council or until the member is removed by the participant Council.

If this matter has already been considered by your Council could you please advise or if it is still to be done please arrange for its consideration as soon as possible."

Report

In June 1998, the South West Regional Waste Management Council constitution became redundant and the Southern Metropolitan Regional Council was formed.

The Regional Council CEO has requested the confirmation of the delegate member from Cockburn to the Regional Council.

The Council can confirm the representative for the South West Regional Waste Management Council be the delegate for the Southern Metropolitan Regional Council.

The Regional Council representative is not appointed for any set term. The participant member council decides on the term. For this Council, this has traditionally been decided in May after the elections for a 2 year period.

Strategic Plan/Policy Implications

Waste minimisation is an objective of the Corporate Plan.

Budget/Financial Implications

This Council will pay \$47,000 this year to the Regional Council as its contribution. A meeting fee of \$100.00 is paid to regional Councillors. There are usually 7 or 8 meetings a year.

9.2 (OCM8/98) - (SPC7/98 16.1) Proposed Amendments To Local Laws (8950) (DMG)

RECOMMENDATION

That Council resolve to:

- (1) disagree with the objection against the Proposed Local Law Amendment on the grounds that it is not uncommon for Local Laws to contain police enactment powers; and
- (2) make a Local Law to amend Part XIV, Division 1, of the City of Cockburn (Local Government Act) Local Laws, as published in the Government Gazette on 14 October 1994, as follows:
 1. Clause 14.1 is to become Clause 14.1.1;
 2. By inserting after Clause 14.1.1, the following 14.1.2. A member of the Western Australian Police Service, either with or without a warrant, is authorised to arrest and remove persons offending against Part IV of these Local Laws.

SPECIAL MAJORITY OF COUNCIL REQUIRED

COMMITTEE RECOMMENDATION (SPC7/98)

MOVED Cllr Howlett SECONDED Cllr Humphreys that Council adopt the recommendation.

CARRIED

SPECIAL MAJORITY OF COUNCIL REQUIRED

COUNCIL DECISION

Background

At its April 1998 Meeting, the City of Cockburn resolved to make a Local Law to amend Clause 14.1 of the City of Cockburn (Local Government Act) Local Laws.

The purpose and effect of the amendment is to enable members of the Police Service of Western Australia the power to remove and/or arrest persons offending against Part IV of the Local Laws dealing with Reserves under the control and management of the City of Cockburn.

Submissions about the proposed amendment were received until Friday, 26th June 1998. One submission was received.

The recommendation was presented to and accepted by the SPC Meeting in July 1998 however, there was an insufficient number of Councillors present at the July Council Meeting, to pass the recommendation by the required Special Majority, hence the matter was deferred until this meeting.

Submission

It is submitted that the Local Law Amendment should proceed in its original form.

The one submission received, raises the concern that such an amendment is unnecessary, given that police have general discretionary powers of arrest, in any circumstances at present. While this is correct, local police have generally felt more obligation to attend to legislative breaches where they have been given express authority to do so. Many pieces of legislation, including local laws, insert such express authority to clarify the intent of administering the law.

Report

The one submission received opposes the proposed amendment on the following grounds:

- (1) it should be expected that police will use their current powers (superior to local laws) to act against law-breakers;
- (2) the powers of arrest seems to be harsh action to take against the misdemeanours of a local law and would be very unpopular if regularly enforced by police; and
- (3) it should be left to the State Government to increase police powers and prescribe criminal acts, not local governments.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

**9.3 (OCM8/98) - Regional Forest Agreement (6119) (DW)
(Attach)**

RECOMMENDATION

That Council resolve to:

- (1) Adopt the following position in relation to the Regional Forest Agreement process:
 - a) support the submission on the Regional Forest Agreement prepared by the Western Australian Municipal Association;
 - b) not comment on the impacts of forest management approaches on old growth and high conservation value forests, or on the sustainability of current and proposed forest management approaches; and
 - c) support the broadening of the scope of the forestry management options currently being considered to allow assessment of the impacts of forestry activities in old growth and high conservation value forest areas.

COUNCIL DECISION

That Council:

Background

The Regional Forest Agreement (RFA) process has been under way since 1996 and aims to balance the utilisation of timber and other resources in the South-West Forest Region, with the protection of environmental and heritage values in line with the 1992 National Forest Policy Statement.

Key outcomes sought from the process which is being driven by the Commonwealth Government, are the provision of industry and community certainty, ecologically sustainable forest management and a comprehensive, adequate and representative reserve system.

When complete, the Agreement will be signed by the Premier and Prime Minister and will provide the blueprint for the management of the South-West forest for the next twenty (20) years.

The process to date, has involved the completion of various studies and assessments and public consultation which has been administered by a joint Steering Committee of Commonwealth and State Agencies, with CALM being the lead agency.

The process has led to considerable public debate in terms of the process itself, the involvement of the community and other stakeholders, criteria used for reserves and the appropriateness of logging within old growth and high conservation value forest areas.

As highlighted through various recent media reports and campaigns, the debate has become highly emotive and has polarised various sections of the community.

A public consultation paper which outlined the objectives of the RFA and approaches which could be employed to achieve these objectives, was released earlier in the year with the comment period closing on the 31st July. Following the consideration of submissions, the State and Commonwealth Governments will finalise the RFA.

Local Government has become involved in the process and debate generally as a stakeholder, particularly in the South-West. This has resulted in some South-West Councils such as Denmark and Manjimup, making strong public statements on the matter. Several metropolitan local authorities notably Nedlands, Fremantle and Subiaco, have also made strong public statements.

WAMA have become closely involved in the process of late, with a Steering Committee being established which prepared a detailed submission on behalf of local government on the public consultation paper.

The matter is also before the LGA Annual General Meeting later this month with a motion on the issue being listed on the Agenda of the meeting.

To date, the City has not become involved in the debate or the RFA process, leaving the issue to be dealt with by local authorities more directly affected and via WAMA.

Recently however, correspondence has been received by the Mayor from the Shire of Manjimup on the matter. Added to this, the motion before the Annual General Meeting of the LGA, requires that delegates from Council will vote on the matter.

Given this and the timing of the LGA meeting, this report has been prepared in order to gain a Council position on the matter.

Submission

Attached to the Agenda (under separate cover), are copies of recent correspondence from the Shire of Manjimup, resolutions of the Shire of Denmark, the motion before the AGM of the LGA which has been placed on the Agenda for that meeting by the City of Subiaco and the submission by WAMA on the RFA. These attachments outline a range of views on the issue and highlight a number of concerns with the RFA process.

Report

The RFA process and associated issues, represents a relatively complex and emotive matter. Time has not allowed a thorough and detailed analysis of the issues although it is clear that the key issues or concerns, relate firstly to the actual RFA process and assessment criteria and secondly, to logging and woodchipping in old growth and high conservation value forests.

The concerns raised in relation to the RFA process, include lack of consultation with the community and local government, the structure of the RFA Steering Committee and role of CALM on this Committee, inability of the community to influence the outcomes of the process, lack of public access to important information in making submissions and concerns over the applicability of national criteria for the determination of areas to be retained as conservation reserves.

The WAMA submission on the public consultation document is considered to capture these concerns adequately from a local government viewpoint and should be supported.

The issue of logging and woodchipping within old growth and high conservation value forest areas, is a highly emotive and divisive issue. Suitable information is not currently available to the City to make an adequate assessment of the impact of current and proposed forestry activities on these areas, nor to be able to comment on the sustainability of forest management approaches. Given this, it is recommended that Council not take a position on this aspect of the issue.

Of concern however, is that the options for forest management outlined in the RFA public documents, did not include an assessment of the impacts of the exclusion of logging or woodchipping in old growth forests. This issue forms part of the motion on the matter before the AGM of the Local Government Association. It is recommended that calls for the broadening of the scope of the forestry management options being considered to provide for assessment of this scenario, be supported.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

9.4 (OCM8/98) - Construction of Beeliar Drive / Spearwood Avenue to Watson Road (450953) (BKG/KJS)

RECOMMENDATION

That Council resolve to refer the acquisition of the land for Beeliar Drive from Spearwood Avenue to Watson Road to the September Community Development Committee meeting.

COUNCIL DECISION

That Council:

Background

At the July meeting of Council it was resolved to:

- (1) confirm that it is not prepared to resume properties within the Beeliar Drive Road Reserve;

- (2) support the negotiation of a right of carriageway and approval to undertake full earthworks and construction of one carriageway within the Beeliar Drive reserve given (1) above, as the preferred method of achieving the earliest construction of the road;
- (3) formally request affected landowners to consider granting Council right of entry and authority to construct the road;
- (4) hold a meeting with the landowners affected by the Road Reservation to discuss the proposal;
- (5) refer the matter back to the August Full Council meeting for a progress review and /or further consideration.

Submission

N/A

Report

Letters were forwarded to the six affected land owners as listed:

E S Garbin
PO Box 226
KALGOORLIE WA 6430

Mr Ciotti
8 Central Road
ROSSMOYNE WA 6148

J & Z Pervan
C/- 113A Moreing Road
ATTADALE WA 6156

V & D Dropulich
76 Birchley Road
YANGEBUP WA 6164

M Greico
4 Berson Court
MUNSTER WA 6166

R Vitali
For Gherardi, Nobensi & Vitali
53 Moreing Road
ATTADALE WA 6156

The letter asked them to reply to the proposal by 31st July 1998. Kevin Sim has received phone calls from some of the affected owners saying it was not possible for them to reply in writing by that time.

Colin Evans of Urban Focus, at the request of several of the owners, has requested a meeting to discuss the proposal. The meeting will be held at 3.30pm on Friday 14 August 1998 with the Director of Planning, the Director of Engineering and Kevin Sim.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

10. PETITIONS

Nil

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING IF GIVEN DURING THE MEETING

Nil

13. CONFIDENTIAL MATTERS

Nil

14. CLOSING