

TOWN OF COTTESLOE



WORKS AND CORPORATE SERVICES COMMITTEE

MINUTES

**MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, TUESDAY, 22 APRIL 2008**

WORKS AND CORPORATE SERVICES COMMITTEE

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DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 7.09 pm.

RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**Present**

Cr Bryan Miller	(Presiding Member)
Mayor Kevin Morgan	
Cr Patricia Carmichael	
Cr Dan Cunningham	
Cr Victor Strzina	(from 7.35 pm)
Mr Stephen Tindale	Chief Executive Officer
Mr Graham Patrick	Manager Corporate Services/Deputy CEO
Mr Geoff Trigg	Manager Engineering Services
Miss Kathryn Bradshaw	Executive Assistant

Apologies

Cr John Utting

Leave of Absence (previously approved)

Cr Ian Woodhill

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Nil

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Mayor Morgan, seconded Cr Cunningham

The Minutes of the Ordinary Meeting of the Works and Corporate Services Committee held on Tuesday, 11 March 2008 be confirmed.

Carried 4/0

ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

PUBLIC STATEMENT TIMEMr John Highet, 5 Graham Court & Mrs Pamela Douglas, 12 Jarrad Street – Private Laneway/Right of Way

Mr Highet expressed concern over the state of the laneway behind Barsden Street. During the 60 years they have been living in Cottesloe the condition of the laneway has continually changed, some of it has been bitumen by Council and some of it by private owners.

The northern section is partially paved and has continually deteriorated over time. Drainage tops protrude, building materials are piled up and some residents have planted trees.

There are 26 garage/car port entrances on the laneway hence it is subject to a reasonable level of traffic on a daily basis. Mr Highet advised the meeting that 31 years ago they approached Council about issues with the laneway and were advised that Council has no jurisdiction to control parking and use on the laneway.

Mr Highet queried why would anyone want to own the laneway, particularly if there is the risk of public liability and why are they not rated by Council.

In closing, Mr Highet asked what can Council do about the condition of the laneway, can it be acquired by Council and can they be advised who the owner is.

Mr Andrew Johnson, Secretary, LGRCEU – Item 1.2 Municipal Employees Award - Request for Wages Adjustment

Mr Johnson spoke in support of the recommendation to the committee to increase the wages to depot staff and back pay. He advised that a request for a wages increase was instigated by Mr Hamish Perriam on behalf of depot staff early last year and the union was approached November 2007 to help in the progress of this matter.

Mr Johnson advised the majority of operational depot crew now have less than three years experience. In light of the current marketplace and current costs of living, the crew are having it very tough.

In closing, Mr Johnson put it to the meeting that back pay should be extended to 1 July 2007 as an act of good faith by Council and in order to secure the current crew.

Mr Hamish Perriam, Area 2 Team Leader/Local Union Representative - Item 1.2 Municipal Employees Award - Request for Wages Adjustment

Mr Perriam explained that the crew has been officially pushing for a raise since November last year after internal efforts failed to progress. He advised that the crew is beginning to suffer as personnel cannot be sourced. Those that are taken on board are extremely hard to keep as the crew is the lowest paid in Perth. Mr Perriam explained that they would like to be able to retain the crew and attract the quality of

workers required to service the Town of Cottesloe. He said there are so many project that need to be addressed and the crew are limited in their skills, such as using chainsaws, bobcats or even having the licence to drive a truck. Over the past few months they have been running at 50% crew with the rest made up from casual workers who cost more in the long run.

Mr Perriam also explained the issue from a personal side in relation to disposable income. They maintain a spreadsheet at home to budget on a weekly basis and have to allow a 'fund' for future outlays such as car registration. Effectively, they have no disposable income.

PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

REPORTS OF COMMITTEES AND OFFICERS

1 ADMINISTRATION

The agenda items were dealt with in the following order: Item 1.2 and then the balance in numerical order.

1.1 VERGE GREEN AND BULK WASTE SERVICE - RESULTS OF TENDER

File No: SUB/710
Attachment(s): [Tender Documentation](#)
Author: Mr David Shimmin
Author Disclosure of Interest: Nil
Report Date: 10 March, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to assess the tenders for the collection of green and bulk waste and the recommendation is to accept the tender submitted by B & N Waste.

STATUTORY ENVIRONMENT

Section 3.57 of the *Local Government Act 1995* provides:-

3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

Extracts from the relevant regulations of the *Local Government (Functions and General) Regulations 1996* are as follows.

11. Tenders to be invited for certain contracts

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 ...

14. Requirements for publicly inviting tenders

- (1) When regulation 11(1), ... requires tenders to be publicly invited, Statewide public notice of the invitation is to be given...
 - (2a) If a local government —
 - (a) is required to invite a tender; ...

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

- (3) The notice, whether under subregulation (1) or (2), is required to include —
 - (a) a brief description of the goods or services required;

(b) particulars identifying a person from whom more detailed information as to tendering may be obtained;

(c) information as to where and how tenders may be submitted; and

(d) the date and time after which tenders cannot be submitted...

15. Minimum time to be allowed for submitting tenders

(1) If the notice is published in the newspaper as part of giving Statewide public notice, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice...

18. Choice of tender

(1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.

(2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender...

(4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them it thinks it would be most advantageous to the local government to accept.

(4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.

(5) The local government may decline to accept any tender...

POLICY IMPLICATIONS

Item 1.7.4 of the Town of Cottesloe's *Purchasing* policy requires the following:-

Tender Criteria

The Town of Cottesloe shall, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

The evaluation panel shall be established prior to the advertising of a tender and include a mix of skills and experience relevant to the nature of the purchase.

For Requests with a total estimated (Ex GST) price of:

- Between \$40,000 and \$99,999, the panel must contain a minimum of 2 members; and
- \$100,000 and above, the panel must contain a minimum of 3 members.

As only one tender has been received a meeting of the Tender Evaluation Panel has not been convened.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Once accepted, the

BACKGROUND

The tender for the Verge Bulk and Green Waste Collection Services 2008/2009 was advertised 9 February, 2008 and tenders closed on 29 February, 2008. There was only one tender received.

Summary of Tender Cost Over 2 Year Contract Period

Tender No.	Name of Tenderer	Cost 2 Years	GST	Additional Costs	Total Cost 2 Years
1	B & N Waste Pty Ltd	\$ 174,720	\$ 17,472	Call back \$ 132.00 p/h Leaflet dist. \$ 3,954	\$ 196,146

CONSULTATION

Nil

STAFF COMMENT

Nil

VOTING

Simple Majority

1.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Cunningham, seconded Cr Carmichael

That Council:

- (1) **Accept the Tender submitted by B & N Waste Pty Ltd for the Verge Bulk and Green Waste Collection Services 2008/2009 for a period of two years commencing 2008 to 2010; and**
- (2) **Authorise the Chief Executive Officer to sign the formal Instrument of Contract upon satisfactory completion of all documentation, as required by the Contract.**

Carried 4/0

Cr Strzina joined the meeting at 7.35 pm

1.2 MUNICIPAL EMPLOYEES AWARD - REQUEST FOR WAGES ADJUSTMENT

File No: SUB/71
Attachment(s): [Supporting Documentation](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 14 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to grant a wage increase of \$65 per week for each 'outside' Council employee back dated to 1 January, 2008.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The financial impact of the proposed back pay to 1 January 2008 is approximately \$8,190.

BACKGROUND

Up until 1 March, 2003 the 'outside' employees of the Town of Cottesloe were covered by the Town of Cottesloe's *Operational Staff Certified Enterprise Agreement*.

Under the agreement it was agreed that on "...the first pay period on or after the 1st of July ... the rate of pay ... [would] increase by the award safety net or CPI for the March for that year, whichever is the greater."

With the expiration of the enterprise agreement, arrangements defaulted back to the standard award arrangements which meant that future wage increases were determined annually by National Wage Case decisions.

As a result, National Wage Case decision increases flowed through to all non-contracted Council employees on 1 June 2003, 30 May 2004 and 11 July 2005.

National Wage Case increase decisions were then replaced by a new wage adjustment system operating under the former Federal Government's Work Choices legislation. Wage increase decisions are now made by the Australian Fair Pay Commission and will continue to be made on an annual basis at least until 2010.

On 26 October, 2006 the Australian Fair Pay Commission announced an increase of \$27.36 per week for minimum wage rates up to \$700 per week and \$22.04 per week

for minimum wage rates \$700 per week and above. The wage increases took effect as of 1 December, 2006.

The union representing the workers believed there was a case for back pay prior to 1 December, 2006 and the Cottesloe Town Council agreed by granting an \$18 per week wage increase backdated to 1 July, 2006 and expiring on 1 December, 2006.

Since then there has been another increase of \$10.25 per week for minimum wage rates up to \$700 per week and \$5.30 per week for minimum wage rates \$700 per week and above. The wage increases took effect as of 1 October, 2007.

These wage increases are summarised in the following table which sets out the annual wage levels for outside staff as applied at the Town of Cottesloe based on:-

Level 4	Labourer
Level 4A	Labourer with added workplace responsibilities
Level 5	Trades qualification
Level 6	Leading hand/ team leader

Description	Date	4	4A	5	6
Certified Enterprise Agreement	26 Jun 2001	28,922.40	30,118.40	30,310.80	31,959.20
Certified Enterprise Agreement	1 Jul 2002	31,638.88	32,947.00	33,157.28	34,961.00
National Wage Case	1 Jun 2003	32,523.00	33,831.00	34,042.00	35,845.00
National Wage Case	30 May 2004	33,511.00	34,819.00	35,030.00	36,833.00
National Wage Case	11 Jul 2005	34,395.00	35,703.00	35,914.00	37,717.00
Council Decision	3 Jul 2006	35,331.00	36,639.00	36,850.00	38,653.00
Fair Pay Commission	1 Dec 2006	35,817.72	37,125.72	37,336.72	38,863.08
Fair Pay Commission	1 Oct 2007	36,350.72	37,401.32	37,612.32	39,138.68

The Local Government & Race Course Employees Union has provided documentation in support of a claim for a \$65/week (\$3,380/year) increase across the board backdated to 1st July 2007 (see attached).

The documentation sets out the actual living expenses and income of one of Council's employees together with arguments for wage increases based on:-

- Increased fuel costs
- Increased house prices and rents
- Increased food and groceries
- Increased government charges
- Relativities with surrounding local governments
- Cost of the claim as a proportion of rates levied
- Staff turnover rates

According to a recent article in the *West Australian*, average wages growth in WA wages in the past year has been \$83 per week.

The average wage was just over \$63,000 a year in the December 2007 quarter (see attachment).

The Town of Cottesloe has fourteen permanent positions on its outside workforce but only nine of those positions are currently filled. For the last year or more the Town of Cottesloe has relied on the engagement of casual staff to make up a shortfall of five to six persons in its permanent workforce at hourly rates that have exceeded those of existing staff.

Where casual staff have shown a reasonable work ethic and aptitude, they have been promoted to the permanent workforce. However resignations from the permanent workforce (usually arising because of better job offers) have meant that as fast as vacancies are filled, a matching number of resignations are received.

Of the nine permanent staff, five have less than two years experience with the Town of Cottesloe and three of those five have less than one year's experience.

CONSULTATION

The CEO has met with the outside workforce at a lunch time meeting held on 26th February 2008. A further meeting with union representatives was held on the 6th March 2008.

Discussions have also been held with the Town's Works Supervisor and the Manager of Engineering Services.

STAFF COMMENT

The workforce's union makes out a strong case for increased wages based on cost of living increases and elected members are encouraged to read the attachments to this agenda item in order to understand the full impact of these increases.

The reality is that our workforce is increasingly being sourced from new suburbs that are some distance from the Western Suburbs (e.g. Atwell) which means that travel costs are increasingly significant in the absence of direct public transport links and/or car pooling.

However the need to increase wages on the simple grounds of a fair day's wage for a fair day's labour and cost-of-living increases is probably the least of it.

The inability to attract a full-strength permanent work force is a direct result of the relatively poor wages offered by the Town of Cottesloe in a time of unskilled labour shortages and if the situation is to be redressed, then wages must increase or service levels must decline.

The following chart sets out the Town of Cottesloe's ranking in terms of wages offered by neighbouring local governments on a per weekly basis.

Local Government	Level 4	Level 5	Level 6
Claremont	693.79	725.50	759.63
Cottesloe	699.05	723.31	752.67
Peppermint Grove*	721.93	736.06	
Mosman Park	725.96	755.06	786.36
Nedlands	729.05	764.35	
Cambridge**	729.52	741.04	764.33
Fremantle	775.62	818.08	845.17
Total	5804.92	6033.40	4713.16
Average	725.62	754.18	785.53
Cottesloe	699.05	723.31	752.67
Difference	26.56	30.87	32.86

* includes maximum service pay component

** further wage increase due 1 July 2008

Up until two years ago the Town of Cottesloe was an employer of choice because of the higher wages paid to its outside employees relative to other local governments.

However the claim is no longer sustainable.

A Fair Pay Commission increase is due in the middle of 2008 but given the wage increases that have flowed through in previous years, the increase is unlikely to attract more workers to the Town of Cottesloe. It certainly will not change Cottesloe's relativity to neighbouring local governments in terms of the above table.

In recent times the Town of Cottesloe was only able to fill two critical positions that required skilled labour by paying significantly more than was previously the case.

The consequence of this action is that the solid core of Council's outside workforce who are on wages that are pegged at relatively low levels may ultimately feel that they are being taken for granted and less inclined to giving their full commitment to the Town of Cottesloe. They may just simply move on.

If 50% of that solid core were to leave tomorrow then the impact on the Cottesloe community would be significant. Much of the knowledge of Cottesloe's operations is acquired on the job and casual employees will not be able to fill the void overnight.

In terms of back pay, the CEO has made it clear to the union that Council is unlikely to support a wage increase backdated much beyond 1 January 2008.

If however, Council felt that a wage increase should be backdated to 1 July 2007 the added financial impost is calculated at \$7,800. The back pay is less than might ordinarily be anticipated simply because a few of our permanent employees are very new to the Town of Cottesloe.

It is not a huge amount to pay in terms of maintaining the goodwill of the workforce.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council grant a wage increase of \$65 per week for each 'outside' Council employee on a pegged wages level (i.e. non-negotiated) back dated to 1 January, 2008 for permanent employees.

1.2 COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Mayor Morgan

That Council grant a wage increase of \$65 per week for each 'outside' Council employee on a pegged wages level (i.e. non-negotiated) back dated to 1 July, 2007 for permanent employees.

Carried 4/0

1.3 PROCOTT INC. - REQUEST FOR CONTRIBUTION TOWARDS FESTIVE LIGHTING

File No: SUB/47
Attachment(s): [Supporting Documentation](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 15 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to give further consideration to a request from Procott for contributory funding towards festive lighting during budget deliberations for the 2008/09 financial year.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

No provision was made in the 2007/08 budget for the contribution of funds to Procott for the supply and installation of festive illumination. Nonetheless unbudgeted expenditure of \$19,680 was approved by absolute majority decision in August 2007.

Any decision to make a contribution from this year's budget will therefore require an absolute majority decision of Council.

Alternatively Council may want to consider setting aside an amount in the 2008/09 budget - which will be determined within the next two months all things being equal.

BACKGROUND

In June 2007 the President of Procott wrote to the CEO advising of Procott's intention to allocate funding of \$30,000 towards the supply and installation of festive illumination in the town centre. In the correspondence, the President of Procott said:-

The Procott Board understands that while there may have not been an allocation of funds for this aspect of the town centre, we hope that there can be some parity between the contributions of Procott and the Town of Cottesloe.

Procott submitted a plan and quotation for festive lighting for Napoleon St, Station St and Jarrad St and contributory funding of \$19,680 was sought from the Town of Cottesloe towards a total project cost of \$49,680.

Council agreed to the request subject to:-

- (1) Procott indemnifying the Town of Cottesloe against theft or vandalism arising from the installation of the festive illumination,
- (2) Procott confirming in writing that it will meet all ongoing costs associated with the maintenance of the lighting, and
- (3) Procott reimbursing the Town of Cottesloe 40% of any income received from any subsequent sale and disposal of the lights within the next five years.

Procott has now made a further request for funds of \$26,000 towards a total project cost of \$46,297 for festive lighting to be installed in Station Street and Stirling Highway before Christmas 2008.

The following points have been made by Procott:-

- The lights will be installed and left in place all year.
- Traders will pay for the power used by the lights and be reimbursed by Procott.
- The cost of installation of power points is submitted as a separate quotation item (i.e. included in the total cost of \$46,297).
- Procott will identify a cost for the maintenance of lighting and replacement of the lighting sections.
- Remaining streets will be similarly decorated in subsequent years.

CONSULTATION

Nil

STAFF COMMENT

The following comments were made to Council by the CEO in August 2007 when considering the first request from Procott.

The Procott offer is almost too good to refuse. Procott has indicated its preparedness and willingness to supply and install festive illumination and assume responsibility for its ongoing maintenance.

In most other local government areas the general expectation is that it is the Council that will purchase and maintain festive illumination – particularly where Christmas festive lighting is concerned.

A decision to contribute funds towards the provision of the festive lighting therefore hinges on the following considerations:-

- Is the proposed investment decision a good one?
- Is any ongoing obligation placed upon the Town of Cottesloe?
- Is there any urgency in providing contributory funding?
- Is there any opportunity for the Town of Cottesloe to recover any costs incurred now at some later date?

In the CEO's opinion the provision of the proposed lighting has considerable benefit and will undoubtedly enhance a cosmopolitan image of Cottesloe. It is a relatively cheap investment which can be amortised over several years. Napoleon Street in

particular lends itself to festive lighting and it is perhaps something of a surprise that other local governments of a similar size to Cottesloe have done more in terms of promoting their town centres with festive lighting over the years – albeit within the narrower confines of the Christmas season.

The willingness of Procott to assume responsibility for ongoing maintenance is also particularly attractive as it places no added burden on the resources of the town of Cottesloe.

However the intention to extend the lighting in future years suggests that there may be some further financial call upon the Town of Cottesloe.

There also appears to be no urgency in providing contributory funding and it is possible that Procott could scale back its proposal with a view to staging it over several years without calling on Council funds and meeting future costs by simply increasing the special rate levy for properties in the town centre.

On balance however, it is my view that the Town of Cottesloe should collaborate with Procott in supporting what is a good initiative and should not really need to wait a year for Council funding or support.

Rather than Council meeting 40% of the total cost, Procott is now requesting that Council meet 56% of the total cost. When queried on why this was so, Procott advised that:-

While the Procott board have identified infrastructure as a primary need, the board thinks it is largely council's responsibility to fund infrastructure items such as festive all year lighting-as do other local government authorities. Procott paid the majority last time, but would like to see council commit to this increased expenditure as evidence of the value of the lights ongoing, now that the concept has been tested and has proved so successful with public and traders alike. We are very pleased to have built a meaningful and functional relationship with council and look forward to other joint initiatives.

In my opinion Council should not create a precedent by contributing more than 50% of the total project cost for this or any other joint initiative that is sponsored by Procott.

A 50/50 cost sharing arrangement keeps things simple and transparent.

VOTING

Absolute majority - if an additional contribution is made to Procott in the current financial year.

Simple majority - if a decision is made to consider the request during budget deliberations for the 2008/09 financial year.

OFFICER RECOMMENDATION

That Council give further consideration to the request from Procott for contributory funding of \$26,000 towards the supply and installation of festive lighting prior to Christmas 2008 during budget deliberations for the 2008/09 financial year.

1.3 COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

- 1. That Council give further consideration to the request from Procott for contributory funding of 50% to a maximum of \$23,150 towards the supply and installation of festive lighting prior to Christmas 2008 during budget deliberations for the 2008/09 financial year.**
- 2. That Procott be requested to revisit the costs of installation.**

Carried 5/0

1.4 WEARNE HOSTEL - EXECUTION OF LEGAL DOCUMENTS

File No: PRO/1450
Attachment(s): [Copy of Transfer of Land Agreement](#)
[Copy of Co-Ownership Agreement](#)
[Copy of Letter from DPI](#)
[Copy of Lease Agreement](#)
[Copy of Constitution](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 14 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

Council's endorsement of the proposed ownership and management arrangements for the Wearne Hostel at Lot 87 Marine Parade, Cottesloe is requested and authorisation is sought for the Mayor and Chief Executive Officer to sign the necessary documentation under seal.

STATUTORY ENVIRONMENT

Regulation 32 of the *Local Government (Functions and General) Regulations* provides the following;

32. Local government permitted to form incorporated association - s.3.60

- (1) A local government may form or take part in forming an association that is to be incorporated under the *Associations Incorporation Act 1987* and may do things for the purpose of the incorporation of the association under that Act.
- (2) A local government may form or take part in forming a body corporate constituted under section 32 of the *Strata Titles Act 1985*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The four local governments of Claremont, Cottesloe, Mosman Park and Peppermint Grove, together with the community, have representatives on the board of management of Curtin Aged Persons Homes Inc. (CAPH) which is an association that is to be incorporated under the *Associations Incorporation Act 1987*.

CAPH has responsibility for the management of Wearne Hostel. The Wearne Hostel provides residential facilities (50 low care beds) for aged persons and undertakes related activities.

CAPH has contracted Churches of Christ Homes and Community Services Inc to manage the facility on a daily basis.

In recent years the four local governments have promoted changes in the way the Wearne Hostel is managed with the major issues being:

- The introduction of a professional and commercial management team (Churches of Christ).
- Streamlining the governance of both CAPH and the former Curtin Aged Persons Foundation so that there is only one board of management with local government and community representation.
- Expanding the Wearne Hostel facilities to ensure the long term viability of CAPH.
- Reviewing the operations of Riversea with a view to improving the viability of that centre.
- Obtaining the title for the Wearne Hostel site to be held jointly in the names of the four local governments.
- Resolving heritage issues at Wearne Hostel so that agreement can be reached without compromising current building needs.
- Supporting the restoration of the old section of the Wearne Hostel.
- Ensuring that any heritage responsibilities rest more appropriately with CAPH rather than the four local governments.

Three outstanding issues are close to being resolved and will be subject to Council's agreement.

They relate to:

Transfer of Land & Co-Ownership Agreement

It is intended that the four local governments jointly own the Wearne Hostel land. A copy of the Transfer of Land document transferring the land from the State to the four local governments is shown as Attachment 1

As the co-ownership of land is a little outside the norm for local governments, it has been decided to formalise the joint ownership arrangements with a Co-Ownership Agreement between the four member local governments (see Attachment 2).

The co-ownership agreement sets out:-

- the interest of the participants in the land (25% each)
- the nature of the relationships between the participants
- the ownership status of the participants (tenants in common)
- expenses, losses and revenue to be shared equally
- a Management Committee to be formed consisting of one representative from each participating local government
- operating rules for the Management Committee
- powers and responsibilities of the Management Committee
- a procedure for the termination of the Agreement if required

- dispute resolution procedures

Conditional Tenure

A provision in Section 75 of the Land Administration Act relating to conditional tenure titles allows the Minister for Lands to confiscate the land for any breach of the conditions of the land tenure and to impose a penalty of up to the unimproved value of the land for defaulting on the conditions.

In this instance, the unimproved value of the land was calculated as being \$11.7m in 2006.

In May 2006 Council decided to accept the conditional tenure title to the Wearne Hostel Site land on the understanding that advice received from the Department of Planning and Infrastructure that the penalty provisions would not be exercised by the Minister was correct and accurate in the event that land tenure conditions were breached.

The Minister's ability to impose a severe financial penalty for the breach of ownership conditions turned out to be an unforeseen consequence of the wording of the legislation and the Department of Planning and Infrastructure has given an assurance in writing that amendments will be made to prevent such an occurrence from happening (see Attachment 3).

Lease Agreement & Heritage Listing

The WA Heritage Council originally insisted that the four local governments sign a heritage agreement with the WA Heritage Council that would bind the four local governments to the restoration of the old Wearne Hostel building under Heritage Council terms.

The Heritage Council has now agreed to enter into a contract with the long term lessee of the land (CAPH) which leaves the owners (the four local governments) out of any direct line of responsibility for heritage restoration works.

A proposed lease agreement for the lease of the land by the four local governments to CAPH has now been finalised (see Attachment 4).

The lease agreement sets out typical lease arrangements and makes particular reference to heritage undertakings.

Constitution

A new constitution for CAPH (see Attachment 5) has been considered by the four local government Chief Executive Officers and the existing CAPH management board. It updates the old constitution and strengthens local government involvement in the management of CAPH.

It gives the power to terminate the appointment of the CAPH Board Members to the four member local governments.

The constitution has been referred to member local governments because ultimately they will be responsible for the Board's activities.

CONSULTATION

The four local government CEO's have met on several occasions over the last three years to review and progress the legal documentation.

STAFF COMMENT

The signing and sealing of the land transfer document and the lease agreement, (incorporating the Heritage Agreement) needs to take place concurrently and is recommended as a priority.

CAPH is already operating under the new constitution because of the perceived inadequacy of the existing constitution.

Any changes to the constitution are dependent on it being adopted and amended as appropriate at a future Annual General Meeting of CAPH.

VOTING

Absolute Majority

OFFICER RECOMMENDATION

That Council:

- (1) Approve the Transfer of Land form, the Co-Ownership Agreement and the Lease Agreement relating to the Wearne Hostel, Lot 87 Marine Parade, Cottesloe and authorise the Mayor and Chief Executive Officer to sign and seal the documents;
- (2) Endorse the proposed Constitution for Curtin Aged Persons Homes Incorporated (CAPH); and
- (3) Appoint Councillor _____ to the Management Committee pursuant to clause 8.2 of the Co-Ownership Agreement.

1.4 COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Cunningham

That Council:

- (1) **Approve the Transfer of Land form, the Co-Ownership Agreement and the Lease Agreement relating to the Wearne Hostel, Lot 87 Marine Parade, Cottesloe and authorise the Mayor and Chief Executive Officer to sign and seal the documents;**

- (2) Endorse the proposed Constitution for Curtin Aged Persons Homes Incorporated (CAPH); and**
- (3) Appoint Councillor Carmichael to the Management Committee pursuant to clause 8.2 of the Co-Ownership Agreement.**

Carried 5/0

1.5 MODEL CODE OF CONDUCT - WALGA UPDATE

File No: SUB/84
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 15 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to adopt an updated *Code of Conduct* for elected members and staff.

STATUTORY ENVIRONMENT

Section 5.103 of the *Local Government Act 1995* provides the following:-

5.103. Codes of conduct

(1) Every local government is to prepare or adopt a code of conduct to be observed by council members, committee members and employees.

[(2) repealed]

(3) Regulations may prescribe codes of conduct or the content of, and matters in relation to, codes of conduct and any code of conduct or provision of a code of conduct applying to a local government under subsection (1) is of effect only to the extent to which it is not inconsistent with regulations.

[Section 5.103 amended by No. 49 of 2004 s. 55; No 1 of 2007 s. 10.]

POLICY IMPLICATIONS

Once adopted, the *Code of Conduct* forms part of Council's Policy Manual.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Town of Cottesloe has a *Code of Conduct* which has been the subject of review by Council on an annual basis.

Recent amendments to the *Local Government Act 1995* have deleted the requirement to undertake an annual review of the *Code of Conduct* amongst other things.

The WA Local Government Association has provided an updated Model Code of Conduct and it is recommended that it be adapted and adopted as the Town of Cottesloe's *Code of Conduct*.

The full text of the proposed *Code of Conduct* follows:-

CODE OF CONDUCT

PREAMBLE

The *Code of Conduct* provides Council members, committee members and staff in local government with consistent guidelines for an acceptable standard of professional conduct. The code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability.

The code is complementary to the principles adopted in the *Local Government Act 1995* and regulations which incorporates four fundamental aims to result in:-

- (a) better decision-making by local governments;
- (b) greater community participation in the decisions and affairs of local governments;
- (c) greater accountability of local governments to their communities; and
- (d) more efficient and effective local government.

The code provides a guide and a basis of expectations for Council members, committee members and staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

STATUTORY ENVIRONMENT

The *Code of Conduct* observes statutory requirements of the *Local Government Act 1995* (S 5.103 – Codes of Conduct) and *Local Government (Administration) Regulations 1996* (Regs 34B and 34C).

RULES OF CONDUCT

Council members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007*.

1. ROLES

1.1 Role of Council Member

The primary role of a Council member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Town of Cottesloe will be the focus of the Council member's public life.

The role of Council members as set out in S 2.10 of the *Local Government Act 1995* follows:

“A Councillor —

- (a) Represents the interests of electors, ratepayers and residents of the district;*
- (b) provides leadership and guidance to the community in the district;*
- (c) facilitates communication between the community and the council;*
- (d) participates in the local government's decision-making processes at council and committee meetings; and*
- (e) performs such other functions as are given to a Councillor by this Act or any other written law."*

A Council member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Council members' activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Town of Cottesloe's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- having an awareness of the statutory obligations imposed on Council members and on local governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

1.2 Role of Staff

The role of staff is determined by the functions of the CEO as set out in S5.41 of the *Local Government Act 1995*: -

"The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*

- (i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*"

1.3 Role of Council

The role of the Council is in accordance with S 2.7 of the *Local Government Act 1995*:

- "(1) The council —*
- (a) directs and controls the local government's affairs; and*
 - (b) is responsible for the performance of the local government's functions.*
- (2) Without limiting subsection (1), the council is to —*
- (a) oversee the allocation of the local government's finances and resources; and*
 - (b) determine the local government's policies."*

1.4 Relationships between Council Members and Staff

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council members and staff have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position, Council members need to observe their statutory obligations which include, but are not limited to, the following:

- accept that their role is a leadership, not a management or administrative one;
- acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility

2. CONFLICT AND DISCLOSURE OF INTEREST

2.1 Conflict of Interest

- (a) Council members, committee members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Town of Cottesloe, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.

- (c) Council members, committee members and staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the local government area or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- (d) Council members, committee members and staff who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- (e) Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.

2.2 Financial Interest

Council members, committee members and staff will adopt the principles of disclosure of financial interest as contained within the *Local Government Act 1995*.

2.3 Disclosure of Interest

Definition :

In this clause, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996 -

"interest" means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

- (a) *A person who is an employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest -
 - (i) in a written notice given to the CEO before the meeting; or
 - (ii) at the meeting immediately before the matter is discussed.*
- (b) *A person who is an employee and who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the person is required to disclose the nature of any interest the person has in the matter -
 - (i) in a written notice given to the CEO before the meeting; or
 - (ii) at the time the advice is given.*
- (c) *A requirement described under items (a) and (b) exclude an interest referred to in S 5.60 of the Local Government Act 1995.*

- (d) *A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if -*
- (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or*
 - (ii) the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.*
- (e) *If a person who is an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then -*
- (i) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*
 - (ii) immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.*
- (f) *If -*
- (i) to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or*
 - (ii) a disclosure is made as described in item (d)(ii) at a meeting; or*
 - (iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.*

3. PERSONAL BENEFIT

3.1 Use of Confidential Information

Council members, committee members and staff will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person or organisation.

3.2 Intellectual Property

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Town of Cottesloe upon its creation unless otherwise agreed by separate contract.

3.3 Improper or Undue Influence

Council members and staff will not take advantage of their position to improperly influence other Council members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

3.4 Gifts

Definitions :

In this clause, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996 -

“activity involving a local government discretion” means an activity -

(a) that cannot be undertaken without an authorisation from the local government; or

(b) by way of a commercial dealing with the local government;

“gift” has the meaning given to that term in S 5.82(4) except that it does not include -

(a) a gift from a relative as defined in S 5.74(1); or

(b) a gift that must be disclosed under Regulation 30B of the Local Government (Elections) Regulations 1997; or

(c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;

“notifiable gift”, in relation to a person who is an employee, means -

(a) a gift worth between \$50 and \$300; or

(b) a gift that is one of 2 or more gifts given to the employee by the same person within

a period of 6 months that are in total worth between \$50 and \$300;

“prohibited gift”, in relation to a person who is an employee, means -

(a) a gift worth \$300 or more; or

(b) a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.

(a) A person who is an employee is to refrain from accepting a prohibited gift from a person who -

(i) is undertaking or seeking to undertake an activity involving a local government discretion; or

(ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.

(b) A person who is an employee and who accepts a notifiable gift from a person who -

(i) is undertaking or seeking to undertake an activity involving a local government discretion; or

(ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion,

notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.

(c) The notification of the acceptance of a notifiable gift must be in writing and include -

(i) the name of the person who gave the gift; and

(ii) the date on which the gift was accepted; and

(iii) a description, and the estimated value, of the gift; and

(iv) the nature of the relationship between the person who is an employee and the

person who gave the gift; and
(v) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift”
(whether or not it is also a notifiable gift under paragraph (a) of that definition) –
(1) a description; and
(2) the estimated value; and
(3) the date of acceptance,
of each other gift accepted within the 6 month period.

(d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).

(e) This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the *Local Government Act 1995*) or an electoral gift (to which other disclosure provisions apply).

(f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

4. CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS AND STAFF

4.1 Personal Behaviour

(a) Council members, committee members and staff will:

- (i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- (ii) perform their duties impartially and in the best interests of the Town of Cottesloe uninfluenced by fear or favour;
- (iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Town of Cottesloe and the community;
- (iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- (v) always act in accordance with their obligation of fidelity to the Town of Cottesloe.

(b) Council members will represent and promote the interests of the local government, while recognising their special duty to their own constituents.

4.2 Honesty and Integrity

Council members, committee members and staff will:

(a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;

(b) bring to the notice of the Mayor any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer.

(c) be frank and honest in their official dealing with each other.

4.3 Performance of Duties

(a) While on duty, staff will give their whole time and attention to the Town of Cottesloe's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Town of Cottesloe.

(b) Council members and committee members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Council members and committee members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

4.4 Compliance with Lawful Orders

(a) Council members, committee members and staff will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution can not be achieved, with the Chief Executive Officer.

(b) Council members, committee members and staff will give effect to the lawful policies of the Town of Cottesloe, whether or not they agree with or approve of them.

4.5 Administrative and Management Practices

Council members, committee members and staff will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

4.6 Corporate Obligations

(a) Standard of Dress

Council members, committee members and staff are expected to comply with neat and responsible dress standards at all times. Accordingly:

(i) Council members and committee members will dress in a manner appropriate to their position, in particular when attending meetings or representing the Town of Cottesloe in an official capacity.

(ii) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.

(b) Communication and Public Relations

(i) All aspects of communication by staff (including verbal, written or personal), involving Town of Cottesloe activities should reflect the status and objectives of the Town of Cottesloe. Communications should be accurate, polite and professional.

(ii) As a representative of the community, Council members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Council members should acknowledge that:

- as a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
- information of a confidential nature ought not be communicated until it is no longer treated as confidential;
- information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
- information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.

(iii) Committee members accept and acknowledge it is their responsibility to observe any direction the Town of Cottesloe may adopt in terms of advancing and promoting the objectives of the Committee to which they have been appointed.

4.7 Appointments to Committees

As part of their representative role Council members are often asked to represent the Council on external organisations. It is important that Council members:

- clearly understand the basis of their appointment; and
- provide regular reports on the activities of the organisation.

5. DEALING WITH COUNCIL PROPERTY

5.1 Use of Local Government Resources

Council members and staff will:

(a) be scrupulously honest in their use of the Town of Cottesloe's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;

(b) use the Town of Cottesloe resources entrusted to them effectively and economically in the course of their duties; and

(c) not use the Town of Cottesloe's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

5.2 Travelling and Sustenance Expenses

Council members, committee members and staff will only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Town of Cottesloe in accordance with Town of Cottesloe policy and the provisions of the *Local Government Act 1995*.

5.3 Access to Information

(a) Staff will ensure that Council members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.

(b) Council members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

RESOLUTION NO.: TBA
ADOPTION: April 2008
REVIEW: April 2012

(Replaces 10.3.2, June 2005)

CONSULTATION

Nil.

STAFF COMMENT

Nil

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council adopt the updated *Code of Conduct* for elected members and staff.

1.5 COMMITTEE RECOMMENDATION

Cr Strzina, seconded Mayor Morgan

That Council:

(1) Adopt the updated *Code of Conduct* for elected members and staff.

- (2) Receive prior to the Council meeting a summary of responsibilities and an update of the changes from the old code of conduct.**
- (3) Receive a report detailing any potential training requirements of elected members on these changes.**

Carried 5/0

1.6 DRAFT LOCAL LAW - TOWN OF COTTESLOE STANDING ORDERS 2008

File No: SUB/179
Attachment(s): [Proposed Text](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 16 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to defer further consideration of the proposed *Town of Cottesloe Standing Orders Local Law 2008* until the May meeting of Council to enable further consultation between Council members and the CEO on the proposed local law and a report being made back to Council on same.

STATUTORY ENVIRONMENT

The *Local Government Act 1995* enables Council to make local laws relating to the conduct of its business.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Direct costs associated with the advertising of any new proposed local law are estimated at around \$2,000.

BACKGROUND

In September 2006 Council passed the following resolutions.

- (1) That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.
- (2) That the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.
- (3) That the CEO be requested to provide a report and recommendations to Council on suggested improvements to Councils Standing Orders.

This report addresses the third resolution.

CONSULTATION

Nil

STAFF COMMENT

A copy of the proposed *Town of Cottesloe Standing Orders Local Law 2008* is attached.

Cottesloe's existing local law relating to Standing Orders is significantly different – perhaps more so in its structure rather than content.

The difference arises largely because the existing local law is now somewhat dated (30 December 1997) and was adopted at around the time when the application of the then new *Local Government Act 1995* was in its infancy.

Since that time, local government Standing Orders local laws have adapted to meet emerging issues and to relate better to the *Local Government Act 1995*.

The proposed *Town of Cottesloe Standing Orders Local Law 2008* is based on a model provided by the Town's legal advisers and gazetted by the City of South Perth in May 2007.

The model has been modified to suit Cottesloe's circumstances, mainly in relation to the order of business on Council's MINUTES papers - which includes a Public Statement Time that appears to be unique to Cottesloe.

The CEO has drafted a new clause 6.8 (Public statement time) which formalises the limits and processes to be applied to public statement time. It reflects the sorts of statutory and regulatory requirements that are currently applied to public question time and could equally be applied to public statement time.

Other modifications include:

- The deletion of a right to call a division to ascertain and record individual voting preferences.
- The inclusion of a right to speak more than once at a committee meeting.

It should be noted that the proposed *Town of Cottesloe Standing Orders Local Law 2008* makes numerous references to the *Local Government Act 1995*. These references make it quite clear as to where the conduct of Council business is being determined by statute and associated regulations.

A failing of Council's current Standing Orders local law is that the phrasing of the local law does not make it clear as to whether the Act itself is determining the conduct of Council's business or not. As a result, any query on the interpretation of the current Standing Orders local laws has to be reconciled against the provisions of the *Local Government Act 1995* to make sure that the complete picture is known and a correct response is made.

On a related matter, an argument can be advanced for including the specific provisions of the *Local Government Act 1995* and associated regulations in the Standing Orders local laws for the sake of greater clarity.

The difficulty in following such a course of action lies in the fact that it is onerous to have to check, and amend if necessary, the Standing Orders local law every time a legislative or regulatory change is made. In other words, it is better to have the Standing Orders local laws standing alone in their own right without unduly fettering them to the *Local Government Act 1995*.

To compensate and to make it easier for Council members, staff and members of the public to interpret the local laws, quite a few local governments now insert text boxes into the local laws **after** they have been gazetted so that relevant provisions of the *Local Government Act 1995* and associated regulations are made more transparent.

An extract from an example of such a working document is shown below.

2.2 TYPES OF COMMITTEES

The types of committees are dealt with in the Act.

(1)	In this section – 'other person' means a person who is not a council member or an employee.
“(2)	A committee is to comprise –
(a)	council members only;
(b)	council members and employees;
(c)	council members, employees and other persons;
(d)	council members and other persons;
(e)	employees and other persons; or
(f)	other persons only.
	[Section 5.9 of the Act]

2.3 DELEGATION OF SOME POWERS AND DUTIES TO CERTAIN COMMITTEES

The delegation of some powers and duties to certain committees is dealt with in the Act.

(1)	Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation. <i>*Absolute majority required.</i>
(2)	A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
(3)	Without limiting the application of sections 58 and 59 of the <i>Interpretation Act 1984</i> –
(a)	a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
(b)	any decision to amend or revoke a delegation under this section is to be by an absolute majority.
(4)	Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.
	[Section 5.16 of the Act]

Given that the structure of the proposed *Town of Cottesloe Standing Orders Local Law 2008* is significantly different to that which it is intended to replace and given that the proposed Standing Orders include new material, Council members may want to take their time in examining and questioning the proposed new local law before it is put out for public comment.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council defer further consideration of the proposed *Town of Cottesloe Standing Orders Local Law 2008* until the May meeting of Council to enable further consultation between Council members and the CEO on the proposed local law and a report being made back to Council on same.

1.6 COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council defer further consideration of the proposed *Town of Cottesloe Standing Orders Local Law 2008* until the June meeting of Council to enable further consultation between Council members and the CEO on the proposed local law and a report being made back to Council on same.

Carried 5/0

1.7 LIBRARY PROJECT STEERING COMMITTEE

File No: SUB/547
Attachment(s): [Rationalisation of Reserve Boundaries](#)
[Library Project Steering Committee Minutes](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 14 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to accept this report.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The ongoing work of the Library Project Steering Committee is leading to the expenditure of approximately \$4.6 million in capital expenditure over the next two financial years.

BACKGROUND

There have been ongoing significant developments with the Library Project Steering Committee. As only two Councillors and the Manager Corporate Services attend the Library Project Steering Committee meetings, the CEO has determined that it would be beneficial to provide full information to all Councillors on a regular basis to the Works & Corporate Services Committee and Council.

CONSULTATION

Nil

STAFF COMMENT

Please note the following comments from the CEO of the Shire of Peppermint Grove received on 28 March 2008 regarding the land rationalisation:

Officers from the Minister of Planning and Infrastructure section have advised the approval has been granted for the process of rationalising the boundaries to begin. The process is as follows:

1. The proposal will be sent back to the Dept of Planning and Infrastructure to advertise the proposed change in the West Australian and allow a period of 30 days for community comment.

2. DPI officers will report to the minister on the results of the Community Consultation process.

3. The Minister will then place the proposal and the report before the Parliamentary Caucus (which will take 1 week) and then before both houses of Parliament for 14 sitting days.

4. If there is no formal movement in Parliament to disallow the proposal then automatic approval will follow.

The Parliament is in recess from the 20 June to 12 August however the Legislative assembly and the Legislative Council have different sitting days. In order to get 14 sitting days for both houses the Minister needs to:

1. Report to caucus on Monday 28 April.

2. Lodge the proposal before the Assembly on Tues 6 May.

3. Lodge the proposal before the Council on preferably the 6 May but at the latest 13 May.

I have been informed that fierce representation was made to the Ministers Office opposing the proposal 12 months ago so they are bracing for more of the same. It would be of benefit to encourage people to write in and make comment in support of the proposal.

It is anticipated that a lot more pressure is going to be applied to reduce water consumption on broad grassed areas, therefore it is unlikely that open grassland areas would be permitted without being demonstratively sustainable. It would help if this issue was brought to notice during the consultation process.

It is clear from this correspondence that the land amalgamation issue is probably going to be resolved within the next two months. This will mean that the three local governments will be in a position to call for tenders at that time (assuming the legal agreement is in place and the cost sharing is finalised).

At its last meeting, the Library Project Steering Committee were informed that Corrs Chambers Westgarth have been given a broad brief to prepare the necessary legal agreements for the further consideration of the three local governments.

VOTING

Simple majority

1.7 OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

That Council accept the report of the officer on the new library project.

Carried 5/0

1.8 GREEN STAR MEMBERSHIP

File No: SUB/547
Attachment: [Green Star Public Buildings Brochure](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 14 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

That Council commit to joint Gold Sponsorship of the Green Building Council of Australia and apply for membership of the Green Building Council.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

This would involve incurring costs of \$11,833 toward the proposed library project.

BACKGROUND

The Library Project Steering Committee recommended that each Council become members of the Green Building Council of Australia as part of the initiative to obtain a 5 star 'Green Rating' for the proposed library, community and office building.

CONSULTATION

Nil

STAFF COMMENT

The Library Project Steering Committee is pursuing 5-Star Green Rating for the library, community and office building.

The Green Building Council of Australia needs sponsorship to develop a public building Certified Rating System. Gold Sponsorship for such a project would cost \$25,000.

Membership for the Green Building Council would cost approximately \$3,500 for each Council but we may be able to negotiate a discount for joint participation in a single project.

VOTING

Absolute majority

OFFICER RECOMMENDATION

That Council commit to:

- (1) Joint Gold Sponsorship of the Green Building Council of Australia.
- (2) Apply for membership of the Green Building Council.

1.8 COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council decline the opportunity to join the Green Building Council of Australia at this stage as there are no existing criteria to assess the green star rating of the building.

Carried by Absolute Majority 5/0

1.9 CUSTOMER SATISFACTION SURVEYS

File No:	Customer Satisfaction Survey
Attachment:	<u>Summary of comments from surveys</u>
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Report Date:	9 April, 2008
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made to receive the summary of comments from the Customer Satisfaction Surveys conducted in 2005.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

At its April, 2005 meeting Council resolved as follows:

That Council conduct a random sample survey of the community, along the same lines as the 2002 community survey, for the following services:

Community Services	Engineering Services
<ul style="list-style-type: none"> • Council publications and information • Council events (Australia Day, Seadragon Festival, musical concerts etc.) • Civic Centre - Council offices • Civic Centre - other buildings • Civic Centre - grounds and gardens • Community safety and security • Cottesloe/Peppermint Grove/Mosman Park Library • Aged Persons Support Service • Public toilets. 	<ul style="list-style-type: none"> • Jarrad Street – West • Jarrad Street - East • Marine Parade • North Street • Curtin Avenue • Marine Parade • Napoleon Street • Rights of way • Other streets • On-street parking • Off-street carparks • Verge parking • Pedestrian crossings • Street litter bins • Street trees • Street drainage

	<ul style="list-style-type: none"> • <i>Street lights</i> • <i>Street kerbs</i> • <i>Street verges</i> • <i>Street cleaning</i> • <i>Footpaths</i> • <i>Dual use paths & cycle lanes</i> • <i>Bus shelters</i> • <i>Streetscapes</i> • <i>Street drainage to include drainage sumps</i> • <i>Beach cleaning</i> • <i>Railway reserves not under control of Council.</i> • <i>Council's green areas watering programme.</i> • <i>Dog excreta removal</i>
<p><i>Recreation Services</i></p> <ul style="list-style-type: none"> • <i>South Cottesloe Beach</i> • <i>Cottesloe Beach</i> • <i>Cottesloe Beach Wading Pool</i> • <i>North Cottesloe Beach</i> • <i>Vera View Beach</i> • <i>Dog exercise areas</i> • <i>Playgrounds</i> • <i>Cottesloe Oval</i> • <i>Harvey Field</i> • <i>Cottesloe Tennis Courts</i> • <i>Sea View Golf Course</i> • <i>Other Parks and Reserves.</i> 	<p><i>Other Services</i></p> <ul style="list-style-type: none"> • <i>Weed control</i> • <i>Noise control</i> • <i>Rubbish bin collection service</i> • <i>Recycling service</i> • <i>Dog control</i> • <i>Building services</i> • <i>Health services</i> • <i>Town planning advisory services</i> • <i>Town planning approvals.</i> • <i>Visual privacy controls</i> • <i>Residential densities</i> • <i>Heritage controls/incentives</i> • <i>Bulk waste collections</i> • <i>Green waste collection service</i> • <i>Cat control</i> • <i>Introduced species of birds (lorikeets and corellas).</i>

Council staff posted out 587 questionnaires to a randomly-selected sample based on the electoral roll used for the May 2005 mayoral election. 196 completed surveys were returned. The results from this survey were presented to Council in December 2005 and a request was made for more information in terms of presenting the actual comments of the respondents.

CONSULTATION

The process involved a survey being sent to 587 electors of the Town.

STAFF COMMENT

The surveys were conducted in 2005. The delay in presenting the actual comments of respondents to Council was caused primarily by the surveys being misplaced in the first instance and a lack of staff resources in the second.

There were over 1,400 comments from the 196 surveys received.

VOTING

Simple majority

OFFICER RECOMMENDATION

That Council:

- (1) Note the comments from the Customer Satisfaction Surveys
- (2) Authorise the next survey to be conducted in September 2008

1.9 COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Note the comments from the Customer Satisfaction Surveys.**
- (2) Authorise the next survey to be conducted in September 2008 and ensure it assists in the determination of the service levels in the Asset Management Plan.**
- (3) Request further tabulation of the comments so that they can be compared with the previous and future surveys.**

Carried 5/0

1.10 BEACH TOILETS

File No: SUB/207
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 14 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to append conditions to the alterations and additions request from Indiana's Restaurant.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

There have been numerous complaints received by Council regarding the standard of cleanliness at the beachfront toilets over many years. Prior to summer 2006/2007 Council agreed to carry out additional cleaning to the public toilets under Indiana's and Barchetta's in an attempt to alleviate the problems that have been experienced.

The initial indications were that this had resolved the problem as there was only one complaint about the toilets at Indiana's during the summer of 2006/2007 and that related to the cleaner not properly announcing his entrance into the ladies facilities prior to commencing his cleaning.

The summer of 2007/2008 was marred by a number of complaints regarding the standard of cleaning at Indiana's. Council requested the matter be resolved at its February 2008 meeting. The Manager Corporate Services initiated cleaning rosters to be completed by the contract cleaner. This was complemented by having the rangers complete a daily checklist to substantiate the cleaners tasks had been completed. In addition to this the contract cleaners were encouraged to have open dialogue with the operators of Indiana's regarding any issues they observed. Following these changes the complaints diminished.

CONSULTATION

Nil

STAFF COMMENT

The Manager Corporate Services and Senior Ranger conducted visits to the majority of beach toilets from Port Beach in Fremantle to Hilarys in Sorrento. There were a number of reasons for these visits including:

- comparing the standard of other metropolitan facilities with those at Indiana's;
- identifying the optimal set-up for beach ablutions; and,
- obtaining some ideas for any future refurbishment at the Indiana Tea House.

Generally speaking the standard of the toilets improved as we went further north.

The features of the better toilets included:

- Simple fixtures and fittings with minimal opportunity for vandals to break or damage pipes, taps or seats. This included push button, timed showers and stainless steel, solid basins and toilets.
- Open roofs – where the facility only had half a roof. This made a significant difference to the smells in the facility as the wind acted as a natural air freshener. These areas also presented as fresher and cleaner.
- Open aspect of facility – good visibility to all areas of the change rooms seem to make it harder for people to carry out anti-social acts like graffiti and damage.
- Corrugated concrete exterior seemed to make it harder for graffiti artists to tag walls.
- Tiled interior walls appeared to be easier to clean graffiti as well as making the facilities look more amenable.

The proposed renovations at Indiana's provide an opportunity to consider alternatives to the existing ablutions.

The current lease contains the following clause:

16 Alterations

16.1 Restrictions on Alterations

Following the construction of the building in accordance with the terms and conditions of this document, the Lessee must not make any alteration or addition to or demolish any part of the premises without the prior consent of the Lessor and subject to:

- (a) the requirements of any statute in force from time to time, the insurer of any of the insured risks and the Insurance Council of Australia; and,
- (b) any condition imposed by the Lessor.

16.2 Consent to Alteration

In giving consent to any alteration, the Lessor may impose any condition, including but not limited to, a condition that:

- (a) the work be carried out:
 - (i) in accordance with other drawings or specifications approved by the Lessor; or
 - (ii) under the supervision of the Lessor's architect or other consultant;

- (b) the Lessee pays the costs and fees of the Lessor in supervising or inspecting the work; and
- (c) the Lessor requires the Lessee to carry out other work to or in the premises as a consequence of the alteration, addition, demolition or installation requested by the lessee;

But in regard to the installation, alteration or addition of partitioning within the premises, the consent of the Lessor may not be unreasonably withheld.

16.3 Other work necessitated by alteration

If any other work is:

- (a) required by the Lessor as a condition of giving consent as mentioned in clause 16.1; or
- (b) necessary to comply with a statute for the time being in force or the requirement of an insurer of the insured risks or the Insurance Council of Australia;

the Lessee must at the option of the Lessor either:

- (c) carry out that work; or
- (d) permit the Lessor to carry out that other work;

at the cost of the Lessee in accordance with any requirement imposed by the Lessor in respect of that other work.

There is scope within the current lease (clause 19) to agree to a variation in the lease to be in writing and signed by both parties.

Now would seem to be an appropriate time to ensure that the proposed refurbishment plans being submitted by Indiana's are linked to the Town's requirements for both an improved cleaning regime and better fixtures within the public change rooms.

VOTING

Simple majority

OFFICER RECOMMENDATION

That subject to legal advice, Council appends the following conditions to the lease agreement in response to the alterations and additions request from Indiana's Restaurant:

- (1) The daily cleaning schedule outlined in Annexure D of the Lease be amended to read:

All cleaning of toilets and immediate surrounds to be carried out to the satisfaction of the Environmental Health Officer three times per day during the period from November 1st to March 31st and once a day at all other times.

- (2) An amount of \$100,000 is required to be put in a trust fund to be used for the refurbishment of the existing toilets in the event that the planned conversion of the toilets has not commenced by 1st May 2010.

1.10 COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

That Council seek legal advice on its ability to impose conditions and/or to amend the lease agreement in response to the request for alterations and additions to the Indiana restaurant.

Carried 5/0

2 ENGINEERING**2.1 COTTESLOE TOWN CENTRE - LONG TERM PARKING - EAST END OF FORREST STREET, COTTESLOE**

File No: SUB/582
Attachment(s): [Plan](#)
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

At its February 2008 meeting, Council resolved:

- (1) Not proceed with the proposed car parking on the Forrest Street median strip.
- (2) Seek community submissions on the Railway Street parking proposal in accordance with Council's *Community Consultation* policy.
- (3) Invite submissions and send plans and background information on the proposal to all adjoining Railway Street property owners between Vera Street and Forrest Street.
- (4) Advertise to the community and notify all adjoining property owners that a permit system for business owners, their staff and nearby residents is intended to be established on a cost recovery basis for those using the proposed car park.
- (5) Invite submissions and send plans and background information on the proposal to Procott and Cottesloe SOS.
- (6) Consider the results of the public consultation process at Council's April 2008 meeting.
- (7) Request staff to provide a report to Council's April 2008 meeting on the feasibility of providing additional verge parking at the eastern end of Forrest Street.

This item provides a report and plan regarding additional parking on the road verge at the eastern end of Forrest Street, with a recommendation that Council:

- (1) Include the proposal to install 16 angled car parking bays on the north and south verges of Forrest Street east of the existing drainage sump into the community advertising process regarding the proposed Railway Street parking area.
- (2) Send letters with a plan showing the proposal to affected landowners in Forrest Street.
- (3) Invite submissions and send plans and background information on the proposal to ProCott and Cottesloe SOS.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

No funds are available for any parking area construction in 2007/08.

The estimated cost to construct the 16 bays shown on the east end verges (both north and south) of Forrest Street is \$26,000.

BACKGROUND

Council resolved in February 2008 to go no further with any consideration of embayed car parking within the area of the Forrest Street median island, east of Railway Street.

It was thought, at that meeting, that a number of 'all day' parking bays may be able to be installed on each side of Forrest Street, east of the median island, due to the great width of both verges.

CONSULTATION

Nil

STAFF COMMENT

The eastern end of Forrest Street between Stirling Highway and the median island sump has a 40m road reserve width, with an approximate 15m width of road verge on each side.

The intersection with Stirling Highway is controlled by an intersection island that allows only a 'left turn in/left turn out' traffic movement.

It is possible to provide additional parking bays east of the Forrest Street sump. A total of 16 new angled bays are shown on the plan included in the attachments. However, four kerbside/parallel parking bays would be removed to allow these installations, leaving an increase of 12 bays. Any additional parking bay provision in this area would require the removal of established verge landscaping. The locations of existing crossovers also limit the potential for extra parking bays. In addition to any new parking bay installation in this area, it is recommended that all parallel parking areas in Forrest Street east of Railway Street be properly line marked as individual parking bays, to maximise the capacity of these sites.

VOTING

Simple Majority

2.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Cunningham

That Council:

- (1) **Include the proposal to install 16 angled car parking bays on the north and south verges of Forrest Street east of the existing drainage sump into the community advertising process regarding the proposed Railway Street parking area.**
- (2) **Send letters with a plan showing the proposal to affected landowners in Forrest Street.**
- (3) **Invite submissions and send plans and background information on the proposal to ProCott and Cottesloe SOS.**

Carried 5/0

3 FINANCE

Agenda items 3.1 to 3.4 were dealt with in numerical order en bloc.

3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 MARCH 2008

File No: SUB/137
Attachment(s): [Financial Statements](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 March 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 March 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$827,067 as at 31 March 2008. Operating Revenue is ahead of budget by \$254,929 (3.5%). Operating Expenditure is \$491,408 (8%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 March 2008 is shown on page 8.

The significant variances this month in the lower than anticipated expenditure are:

EDUCATION & WELFARE \$35,055 – timing of payments for disability access projects and OTHER PROPERTY & SERVICES \$38,992 – internal adjustment to allocation of overheads.

Whilst not meeting the criteria for significant variances in terms of % difference to budget the following items constitute the majority of the favourable variance in expenditure and are worthy of note:

COMMUNITY AMENITIES - lower than budgeted expenditure on contractors in the area of sanitation (\$64,610) and legal, consultant and contractor expenses for Town Planning be lower than forecast (\$203,532). This includes scheme review expenses.

The Capital Works Program is listed on pages 18 to 19 and shows total expenditure of \$2,064,340 compared to YTD budget of \$2,680,199. The actual expenditure includes \$266,628 related to the proposed new library that was not budgeted in capital expenditure (note: \$100,000 was budgeted as operational expenditure). This is noted in the budget review.

The other items of capital are budgeted with some timing differences causing the variance.

VOTING

Simple Majority

3.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 March 2008, as submitted to the 22 April 2008 meeting of the Works and Corporate Services Committee.

Carried 5/0

3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 MARCH 2008

File No: SUB/150 & SUB/151
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 March 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 March 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Schedule of Investments and Schedule of Loans are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 12 of the Financial Statements shows that \$2,972,458.04 was invested as at 31 March, 2008

Reserve Funds make up \$1,276,942.44 of the total invested and are restricted funds. Approximately 62% of the funds are invested with the National Australia Bank, 19% with Home Building Society and 19% with BankWest.

The Schedule of Loans on page 13 shows a balance of \$253,674.65 as at 31 March, 2008. There is \$151,392.23 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

3.2 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 March 2008, as submitted to the 22 April 2008 meeting of the Works and Corporate Services Committee.

Carried 5/0

3.3 ACCOUNTS FOR THE PERIOD ENDING 31 MARCH 2008

File No: SUB/144
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 March 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 March 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 41 of the Financial Statements:

- \$10,743.97 to Cobblestone Concrete for footpath installation
- \$13,856.13 to WA Electoral Commission for election costs from October 2007
- \$14,598.97 to WA Local Govt Super Fund for staff deductions
- \$16,384.76 to BCITF for payment of levies collected
- \$14,737.90 to WA Local Govt Super Fund for staff deductions
- \$11,176.00 to Phillip Griffith Architects for services on the Civic Centre
- \$39,053.11 to Trum P/L for waste collection
- \$235,154.40 to FESA for ESL for 3rd quarter 2007/2008
- \$17,399.62 to Surf Life Saving WA for lifeguard contract for February 2008
- \$68,623.50 to Roads 2000 for various road construction works
- \$12,832.18 to Waste Management Assoc of WA for transfer tipping fees
- \$76,279.14 to Shire of PG for contributions to new library project
- \$44,261.25 to Roads 2000 for road construction works on Marine Pde

- \$33,000 to Sculpture by the Sea for new acquisition
- \$20,653.46 to Waste Management Assoc of WA for transfer tipping fees
- \$11,344.03 to ATO for BAS for February 2008
- \$38,149.00 to Osborne Park VW for new vehicle

\$115,779.13 for staff payroll

VOTING

Simple Majority

3.3 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council receive the List of Accounts for the period ending 31 March 2008, as submitted to the 22 April 2008 meeting of the Works and Corporate Services Committee.

Carried 5/0

3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD ENDING 31 MARCH 2008

File No: SUB/145
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 March 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 March 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 14 to 16 of the Financial Statements shows a balance of \$312,933.77 of which \$52,985.59 relates to the current month. The balance of aged debt greater than 30 days stood at \$112,769.07 of which \$105,002.28 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

Property Debtors are shown in the Rates and Charges analysis on page 17 of the Financial Statements and show a balance of \$368,380.56. Of this amount \$194,635.52 and \$33,838.40 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$173,745 in 2008 compared to \$314,759 last year.

VOTING

Simple Majority

3.4 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 31 March 2008; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 March 2008.**

Carried 5/0

3.5 BUDGET REVIEW 2007/2008

File No: SUB/141
Attachment(s): [Budget Review](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 2 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

Local governments are required to conduct a budget review between 1st January and 31st March each financial year. This budget review consists of a detailed comparison of the year-to-date actual results with the budget.

STATUTORY ENVIRONMENT

Regulation 33A of the Local Government (Financial Management) Regulations 1996 provides the following:

Review of budget

(1) Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.

(2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.

(3) A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.

**Absolute majority required.*

(4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There is a small deficit compared to budget based on the forecast. Senior management have been made aware of the current financial position and have been encouraged to limit any non-essential expenditure during the last quarter of the financial year.

BACKGROUND

Regulation 33A is meant to ensure that Council is kept fully abreast of marked variances between budgeted and actual income and expenditure.

CONSULTATION

Nil

STAFF COMMENT

The budget review (see attachment) shows Council's operating position forecast for a deficit of approximately \$86,000. The primary cause for the deficit is the additional funds expended on the new library project. The remainder of the income and expense within other cost centres are tracking well when compared with both year to date and projected figures. Also attached is the Operating Statement (more detailed reports are available upon request).

There is a requirement to review the materiality levels each year that trigger a report on significant variances in the budget review. It is recommended that this be maintained at the same levels as last year, that is, any variance being greater than 15% or \$25,000.

VOTING

Absolute Majority

3.5 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Maintain the materiality level used to report on significant variances in the budget review as being greater than 15% and greater than \$25,000; and**
- (2) Adopt the budget review.**

Carried 5/0

ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

4 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**4.1 OWNERSHIP OF PRIVATE LANEWAYS/RIGHT OF WAYS**

File No: SUB/274
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 22 April, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

Following the public statement regarding concerns with the control, public liability and ownership of a private right-of-way a recommendation was made to the Manager Engineering Services to:

- (1) Address the concerns raised by the owner of 12 Jarrad Street.
- (2) Provide a report to Council on a strategy to obtain ownership of all existing privately owned right-of-ways.
- (3) Investigate the rating the privately owned right-of-ways.

VOTING

Simple Majority

4.1 COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Carmichael

That Council request staff to:

- (1) **Address the concerns raised by the owner of 12 Jarrad Street.**
- (2) **Provide a report to Council on a strategy to obtain ownership of all existing privately owned right-of-ways.**
- (3) **Investigate the rating of privately owned right-of-ways.**

Carried 5/0

MEETING CLOSURE

The Presiding Officer announced the closure of the meeting at 9.10 pm.

*CONFIRMED: PRESIDING MEMBER*_____ *DATE: .../.../...*