

TOWN OF COTTESLOE



WORKS AND CORPORATE SERVICES COMMITTEE

MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, TUESDAY, 18 SEPTEMBER 2012

CARL ASKEW
Chief Executive Officer

21 September 2012

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WORKS AND CORPORATE SERVICES COMMITTEE
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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 7:00 PM.

2 DISCLAIMER**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

4.2 PUBLIC QUESTIONS

Nil

5 PUBLIC STATEMENT TIME

Nil

6 ATTENDANCE**Present**

Cr Rob Rowell	Presiding Member
Mayor Kevin Morgan	
Cr Greg Boland	
Cr Sally Pyvis	
Cr Peter Jeanes	Deputy Member

Officers Present

Carl Askew	Chief Executive Officer
Mat Humfrey	Manager Corporate & Community Services
Geoff Trigg	Manager Engineering Services
Christy Watterson	Administration & Governance Officer

6.1 APOLOGIES

Cr Victor Strzina

Officer Apologies

Nil

6.2 APPROVED LEAVE OF ABSENCE

Nil

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 DECLARATION OF INTERESTS

Cr Rowell – Item 10.1.1 - Declaration of Financial Interest
Cr Jeanes – Item 10.1.1 - Declaration of Financial Interest
Carl Askew – Item 10.1.1 - Declaration of Impartiality

8 CONFIRMATION OF MINUTES

Moved Mayor Morgan, Seconded Cr Boland

[Minutes August 21 2012 Works and Corporate Services Committee.doc](#)

The Minutes of the Ordinary meeting of the Works And Corporate Services Committee, held on 21 August 2012 be confirmed.

Carried 5/0

9 PRESENTATIONS**9.1 PETITIONS**

Nil

The Presiding Member dealt with the reports as per the published order of the agenda.

The following items from the Works and Corporate Services Committee were dealt with en bloc.

10.3.1 Statutory Financial Reports for the Period 1 July 2012 to 31 August 2012
10.3.2 List of Accounts Paid For the Month of August 2012
10.3.3 Schedule of Investments and Loans as at 31 August 2012
10.3.4 Property and Sundry Debtors Report as at 31 August 2012

9.2 PRESENTATIONS

Nil

9.3 DEPUTATIONS

Nil

10 REPORTS

10.1 ADMINISTRATION

Cr Rowell declared a financial interest in Item 10.1.1, due to receiving remuneration for being the Chairman of CAPH and left the Mayors Parlour at 7.05PM.

Cr Jeanes declared a financial interest in Item 10.1.1 due to receiving remuneration for being a member of the CAPH board and left the Mayors Parlour at 7.05PM.

The CEO declared an impartiality interest in Item 10.1.1 due to being a member of CAPH in accordance with the constitution.

10.1.1 CURTIN AGED PERSONS HOMES INC (CAPH) – GOVERNANCE AND CONSTITUTION

File No:	SUB/804
Attachments:	CAPH Report 25 July 2011 CAPH Constitution CONFIDENTIAL CAPH Transitional Plan CONFIDENTIAL Grant Thornton CAPH Governance Review July 12 CONFIDENTIAL Grant Thornton CAPH Development Overview CONFIDENTIAL Governance Framework Review CEOs
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Carl Askew Chief Executive Officer
Proposed Meeting Date:	18 September 2012
Author Disclosure of Interest	In accordance with the constitution the CEO is a member of CAPH

SUMMARY

The purpose of this report is to seek Council's endorsement of the new Constitution and Transition Plan for Curtin Aged Persons Homes Inc. (CAPH).

In July/August 2011 the Councils of the Shire of Peppermint Grove, the Town of Mosman Park, the Town of Cottesloe and the Town of Claremont gave 'in principle approval for the establishment of a new Constitution for Curtin Aged Persons Homes Inc. (CAPH) for the purpose of creating an organisation independent of each local government

The Council's also requested the development of a Transition Plan for the implementation of the new Constitution and requested that the four Chief Executive Officers work with CAPH in developing documents for further consideration by each Council

This report provides a summary of activity since August 2011 and seeks endorsement of a new CAPH Constitution and Transition Plan.

BACKGROUND

At its Ordinary Meeting on 25 July 2011, Council resolved as follows:

That Council:

- 1 *Note the information provided and defer this matter for further consideration and report on options and models for Council's future involvement with CAPH and the provision of residential Aged Care services within the district.*
- 2 *Request the Board of CAPH to continue to liaise with the Chief Executive Officers of the Towns of Claremont, Cottesloe, Mosman Park and the Shire of Peppermint Grove regarding proposed changes to the CAPH Constitution and procedural steps necessary for the effective implementation of same.*
- 3 *Request the Board of CAPH to provide a draft amended Constitution to the Town for its consideration;*
- 4 *Request that the Board of CAPH provide a transitional plan for the implementation of changes to the Constitution;*

Additional background information is contained in the report considered by Council at its 25 July 2011 meeting, which is attached.

Following Council's decision in July 2011, the Chief Executive Officers of the four local governments have met with representatives of CAPH to revise the Constitution and develop a Plan for the transition from the old to the new Constitution.

The attached Constitution and Transition Plan have been reviewed and approved by the Chief Executive Officers. The Chief Executive Officers have also sought legal advice on the proposed Constitution. The Board of Management of CAPH has reviewed and approved the new Constitution and Transition Plan.

STRATEGIC IMPLICATIONS

The adoption of the new Constitution for Curtin Aged Persons Homes Inc. removes the four local governments from responsibilities associated with the management and governance of CAPH.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

The only cost incurred was for legal advice to review the constitution – a cost has been shared between 4 Member Councils.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The recent history associated with the investigation and options for a restructure of CAPH has been as follows:

JULY/AUGUST 2011

Shire of Peppermint Grove, Towns of Mosman Park, Claremont and Cottesloe agreed 'in principle' changes to the structure of CAPH, potentially to remove any local government involvement.

NOVEMBER 2011

CAPH commenced an investigation of all options for a restructure. Investigation was conducted by Mr Cam Ansell, from Grant Thornton Australia Ltd. This investigation included workshops with local government Chief Executive Officers.

JUNE 2012

Completion of consideration of the Grant Thornton work by the Chief Executive Officers with the identification of a preferred governance option.

JULY 2012

Agreement between CAPH Board and the Chief Executive Officer's Group on the preferred option and the associated documentation, including a revised Constitution and Transition Plan. This included review by independent solicitors appointed by the Chief Executive Officers to review the draft Constitution.

AUGUST 2012

Completion of revised Constitution and Transition Plan.

STAFF COMMENT

While there may be some community perception that CAPH Inc. is an organisation managed by the four local governments for the direct benefit of their respective residents, in reality CAPH already functions as an independent organisation.

As a key stakeholder and primary provider of aged accommodation in the region, it is expected that CAPH will continue to work closely with the four local governments for the integrated planning of aged services in the region.

The Chief Executive Officers from the Towns of Claremont, Cottesloe, Mosman Park and the Shire of Peppermint Grove have been working closely with representatives of Curtin Aged Persons Homes Inc., and their management consultant and legal advisor since August 2011. Part of the process included an assessment of governance options for CAPH, undertaken by Grant Thornton, and reviewed by the Chief Executive Officers. This process identified a reconstituted CAPH as the best option for the future.

The Chief Executive Officers also sought independent legal advice on the Constitution. They are now confident that the new Constitution and Transition Plan will ensure the transition of CAPH to an independent not for profit organisation with a

Constitution that will provide robust governance. The Constitution was drafted with the intention of being consistent with the *Associations Incorporation Act* and the *Local Government Act*; and being legally effective. The Constitution now provides for an independent Board, the most significant changes being:

- Local governments will no longer provide representatives on the Board
- The CAPH Board will recruit and appoint its own independent Board members who have qualifications and experience appropriate to the activities of CAPH
- Local government Chief Executive Officers will no longer be members of CAPH, or have veto rights over members
- Terms for Board members have been introduced with a maximum term of 9 years
- The Constitution requires the establishment of a Good Governance Charter which will comply with 'best practice' governance and legislative requirements for not for profit organisations
- Establishment of Finance and Audit Committees, including requirements for internal and external audits of governance procedures
- Increased governance and financial reporting to members via the Annual Report and AGM
- Preparation and on-going review of short-term, medium-term and long-term Strategic and Forward Financial Plans.
- The members of the Board of Management must be members and residents of the district
- Establishment of a 'Friends Group' to provide support and assistance to residents
- Expansion of the number and role of members

The Transition Plan provides for the transition from the old to the new Constitution and includes:

- The new Constitution must be adopted by the current members of the Association (which includes Council representatives and Chief Executive Officers) at a Special Meeting following endorsement by each Council in September
- Current Council representatives on the Board of Management may elect to remain on the Board following the adoption of the new Constitution until the next Annual General Meeting, at which time they may choose to nominate as an independent Board member
- Provides a timeline for the development of key strategic documents as required under the new Constitution

This report therefore seeks the endorsement of the Constitution and Transition Plan by the four Councils to enable the Board of CAPH to call a special meeting to adopt the new Constitution and commence the implementation of the Transition Plan.

VOTING

Simple Majority

Cr's Rowell and Jeanes left the Mayors Parlour at 7:05pm.

Cr Boland assumed the Chair at 7:05pm.

COMMITTEE DISCUSSION

Committee discussed the report and issues at length with members indicating a desire to retain a level of control over the actions of the Board, including Board appointments, if not considered to be in the best interest of the community. Discussion included clarification over the role and purpose of Association members and the inter-relationship between the appointment of members and appointment of the Board.

Of the 5 options outlined in the Consultants report there was a leaning towards a continuation of the existing governance arrangements, with constitutional amendments, which will achieve the Committee's desired outcomes. Committee also acknowledged that, under the current Constitution, if other members vote in favour of the proposed Constitution and Transition Plan, then the Town of Cottesloe's vote will not have any impact as it only requires a 75% majority. As a consequence, Committee determined to defer the matter to provide sufficient time to obtain advice on how Council can retain residual control over the Board and endorsed a new motion.

OFFICER RECOMMENDATION

THAT Council endorses the new Constitution and Transition Plan for Curtin Aged Persons Home Inc (CAPH).

NEW MOTION

Moved Mayor Morgan, seconded Cr Pyvis

THAT Council defer this matter to receive advice and consider whether the desired outcomes can be achieved without removing Councils' residual control of the Board, including consideration of alternative structures and governance arrangements.

Carried 3/0

Cr's Rowell and Jeanes returned to the Mayors Parlour at 8:05pm.

Cr Rowell resumed the Chair at 8:05pm.

**10.1.2 AUSTRALIAN INSTITUTE OF BUILDING SURVEYORS NATIONAL
CONFERENCE - MELBOURNE 21-24 OCTOBER 2012**

File No: SUB/83
Attachments: [AIBS 2012 Conference](#)
Author: Sam Neale
Principle Building Surveyor
Responsible Officer: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest: Nil

SUMMARY

This report recommends approval for the Principal Building Surveyor to attend the 3 day Australian Institute of Building Surveyors National Conference in Melbourne from 21-24 October, 2012.

BACKGROUND

Every year in Australia a range of building and related conferences occur in various cities, offering ideal opportunities for professional development and benefits to participating organizations. Such conferences cover current issues, overseas experience, new ideas, technical skills, workshops, field trips, networking and consultancies, in an effort to keep abreast of building matters and practices.

The Australian Institute of Building Surveyors National Conference is identified as particularly relevant to all local governments, including Cottesloe, as it will address all current issues associated with building control, with potential benefits from the experience and knowledge of interstate and international building practitioners.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Council's Conferences Policy - adopted July 2012 applies.

Employees who wish to attend a conference/seminar/training shall complete a request for training application form and submit it to the Chief Executive Officer through their Supervisor.

The Town will fund attendance at conferences and seminars in order to provide regular opportunities for all employees of the Town to upgrade and enhance their skills and knowledge.

At the recommendation of the relevant Manager and the Chief Executive Officer, Council approval shall be sought prior to employee's attendance at conferences and seminars outside of Western Australia, by referral to the Works and Corporate Services Committee for recommendation to Council.

The following expenses for approved conferences/seminars/training will be met by Council:

- *Registration Fees*
- *Return Air Fares and other necessary transport expenses*
- *Reasonable Accommodation and Living expenses*

All expenditure is to be accounted for prior to reimbursement.

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

The estimated cost of registration, accommodation, travel and meals for the conference is \$3,000-\$3,300 and can be met by the current training/conference budget for Building staff.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The conference is an international event aimed to attract building surveyors, designers, architects, fire engineers, sustainability experts, and allied professionals within the construction industry associated with the built environment.

It concentrates on global trends relating to building materials, changes in urban building control, private certification, alternative solutions in the national construction code, innovation, regulation and governance, building defects and risk management, best practice and international sustainability solutions. The conference entails three days of detailed analysis, leading knowledge, educational workshops and interactive discussion.

The program features a comprehensive array of expert speakers and case studies to provide attendees with the latest information and advice on how to best address the design and build of new homes and additions and the management of the new Building Act. Of particular interest will be the keynote address: The reform of the Victorian Building Permit System.

With local governments losing building staff to private enterprise, following the introduction of the Building Act, discussions on innovation vs regulation and changes in global building control, will potentially provide ways of achieving best practice for building control in Cottesloe.

Speakers include:

The Hon Matthew Guy MLC - Minister for Planning in Victoria and has represented the Northern Metropolitan Region in the Legislative Council since 2006.

Dr Koichi Saito, chairman of the Saito Nippon Corporation which controls more than 30 companies two of which are in Japan's top 100. Saito is also considered an authority on the integration of traditional Japanese culture into western management practices.

Neil Savery - Deputy Commissioner, Victorian Building Commission - Reform of the Victorian Building Permit System.

Peter Johnson - National Director ARUP - Fire Safety Engineering Accreditation Framework. Peter is a Principal of Arup and the former Global Leader of Arup Fire (2005-2009).

Kim Lovegrove - Professor Kim Lovegrove FAIB, is a Conjoint Professor in Building Regulation and Certification at Newcastle University.

David Waldren Managing Director, Grocon Group - Innovation or Regulation

Dr Jeroen Van Der Heijden - Amsterdam University, The Netherlands Global update:

Comparison of International Sustainability Solutions

Mike Gentile - Director, Philip Chun, North America USA T Michael is a leading international code consultant with over 20 years of professional experience in the research, development, and application of Federal, State local design codes, standards, and provisions.

Dan Bailey - President, International Association of Wildland Fire, USA.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, Seconded Mayor Morgan

THAT Council APPROVE the attendance of the Principal Building Surveyor at the AIBS International Conference in Melbourne, October 21- 23 2012, and request that a report on the conference be provided within two months of attending the event.

Carried 5/0

10.1.3 REQUESTED UNDERTAKING – STANDING ORDERS LOCAL LAW 2012

File No: CLL/5
Attachments: [Letter from Joint Standing Committee On Delegated Legislation Standing Orders Local Law Exert](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate Services
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest Nil

SUMMARY

Council is being asked to consider an undertaking requested by the Joint Standing Committee on Delegated Legislation with regards to the Town's Standing Orders Local Law 2012.

BACKGROUND

Council resolved to make the Town of Cottesloe Standing Orders Local Law 2012 at its meeting on 28 May 2012. There were many changes from the previous version of the local law, with the majority of these changes made to ensure the local law complied with the drafting standards required by the Joint Standing Committee on Delegated Legislation. There were several operative changes, being the removal of the requirement to stand while speaking, the inclusion of a clause that prevented people recording the meeting without permission and the formalisation of public statement time.

The numerous drafting changes throughout the document were caused by the age of parts of the local law, some of which pre-dated the Local Government Act 1995. References to Mayor and Councilor were replaced with Presiding Member and Member, acronyms were used where defined and any "explanative text" removed. Further any clause that covered subject matter contained within the Act or Regulations was removed (as is now required) and careful examination was made to ensure that all parts of the local law were allowed under s3.5 of the Local Government Act 1995. Administration also ensured that all decisions were subject to appeal (as required) and that text from disallowed local laws (from other local governments) was not repeated in the local law as presented.

One clause that was considered by Administration was clause 11.13. This clause covers the situation where staff or committee members, who are not Councilors, are required to declare any interest they may have in a matter before the meeting. This was included in the previous version of the local law and was edited and included in the version that was adopted. Consideration was given to the fact that in 2007, the *Local Government (Administration) Regulations 1996* were amended to reflect the requirement for the local government to have a Code of Conduct Policy. It was thought that as this was a requirement of the local government, having a clause in the local law that placed a requirement on an individual was not in conflict with the Regulation, nor was it duplicative of the Regulation.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

S3.5 of the Local Government Act 1995 provides the ability for a local government to create and adopt local laws.

3.5 Legislative power of local governments

- (1) *A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*
- (2) *A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 3.6*
- (3) *The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.*
- (4) *Regulations may set out –*
 - (a) *matters about which, or purposes for which, local laws are not to be made; or*
 - (b) *kinds of local laws that are not to be made, and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind.*
- (5) *Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).*

3.12 Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to –*
 - (a) *give State-wide public notice stating that –*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarised in the notice*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any pace specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

- (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3A) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

***Absolute majority required**

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice –*
- (a) *stating the title of the local law;*
 - (b) *summarising the purpose and effect of the local law (specifying the date on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section –*
making *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

Regulation 34C of the Local Government (Administration) Regulations 1996 requires all local governments to have a code of conduct policy.

34C. Codes of conduct about disclosing interests affecting impartiality, content of (Act s. 5.103(3))

- (1) *In this regulation —*
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.*
- (2) *A code of conduct is to contain a requirement that 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 disclose the nature of the interest —*
- (a) *in a written notice given to the CEO before the meeting; or*
 - (b) *at the meeting immediately before the matter is discussed.*

- (3) *A code of conduct is to contain a requirement that 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 disclose the nature of any interest the person has in the matter —*
- (a) *in a written notice given to the CEO before the meeting; or*
 - (b) *at the time the advice is given.*
- (4) *A code of conduct is to exclude from a requirement made under subregulation (2) or (3) an interest referred to in section 5.60.*
- (5) *A code of conduct is to excuse a person from a requirement made under subregulation (2) or (3) to disclose the nature of an interest if —*
- (a) *the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or*
 - (b) *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.*
- (6) *A code of conduct is to require that if, to comply with a requirement made under subregulation (2) or (3), a person who is an employee makes a disclosure in a written notice given to the CEO before a meeting then —*
- (a) *before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*
 - (b) *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.*
- (7) *If —*
- (a) *to comply with a requirement made under subregulation (2), the nature of a person's interest in a matter is disclosed at a meeting; or*
 - (b) *a disclosure is made as described in subregulation (5)(b) at a meeting; or*
 - (c) *to comply with a requirement made under subregulation (6)(b), 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.*

[Regulation 34C inserted in Gazette 21 Aug 2007 p. 4192-3.]

FINANCIAL IMPLICATIONS

If the undertaking as requested (and recommended) is adopted by Council, a new local law to amend the Standing Orders Local Law 2012, with all of the associated advertising and notice will be required to be adopted. The approximate cost of this is \$4,000, plus staff time in drafting the required documents.

This cost can be met within current operational budgets.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Administration staff have discussed this issue at length with the advisory officer from the Joint Standing Committee's staff.

STAFF COMMENT

The administration spent a great deal of time when drafting the Standing Orders Local Law ensuring that no part of the local law duplicated any Act or Regulation. When clause 11.13 was considered, it was felt that it was not a duplication of the Regulation, as the Regulation required the local government to have a code of conduct, where as the local law required employees and other committee members to undertake a specific action.

Advisory Officers have looked at this clause from another point of view and have come to a different conclusion. Their advice is that given *Regulation 34C* and the *Local Government (Rules of Conduct) Regulations 2007* were legislated at a similar time, the intent of the government of the day was that this requirement was to appear in a Code of Conduct policy, and ONLY in a Code of Conduct policy. They have also conceded that it does not specifically state in any Act or Regulation that a similar requirement could not also be included in a local law.

When the timing of the Regulations is considered, there is a strong argument that the government of the day intended these rules ONLY to be in a code of conduct policy, not a local law. It was probably the intent of the government to separate the rules of disclosure for staff and elected members, and to provide a mechanism that prevented elected members from being able to directly discipline staff. If the requirements remained in the local law, Council would be able to require staff members to make disclosures, where as in a policy, it remains an industrial issue, which is the purview of the CEO.

However, this regime does have a weakness, in that disciplining a staff member who breaches the Code of Conduct, remains an industrial matter only. If a staff member failed to disclose a material interest, the options would be for the CEO (largely at their discretion) to discipline the staff member – or if they believed that the misconduct was significant, refer the matter to the Corruption and Crime Commission, who may choose whether or not to investigate.

Clearly the intention of Regulation 34C is that staff would be required to disclose all matters affecting impartiality in the same way as elected members. It may be that Regulation 34C be amended such that it carries the same powers as a local law (in the same ways as the Uniform Local Provision Regulations) with the power to issue infringement notices limited to the CEO or relevant state government agency (Department of Local Government or CCC).

VOTING

Simple Majority

COMMITTEE DISCUSSION

The Manager Corporate and Community Services advised that the amendments do not significantly change the law and that no other department had suggested the changes, other than the Joint Standing Committee.

Cr Jeanes suggested that officers write to WALGA and the Department of Local Government regarding the process and costs associated with reviewing a local law.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Boland, Seconded Mayor Morgan

THAT Council give an undertaking to the Joint Standing Committee on Delegated Legislation that:

- 1. A further review of the Standing Orders Local Law 2012 will be initiated within 6 months, with the purpose of removing clause 11.13 of the local law and making any consequential amendments.**
- 2. A notice of this undertaking be published where ever the local law is published.**
- 3. Provide the Joint Standing Committee on Delegated Legislation with a copy of these Minutes as requested.**
- 4. Not enforce clause 11.13 of the Standing Orders Local Law 2012, contrary to the intention of the undertaking in point 1.**

Carried 5/0

10.2 ENGINEERING

10.2.1 CONVERSION OF STATION STREET SUMP INTO A SURFACE CAR PARK

File No: SUB/935
Attachments: [Examples of Alternative Drainage Cell Materials](#)
Responsible Officer: Carl Askew
Author: Geoff Trigg
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest: Nil

SUMMARY

At its meeting on the 27 August 2012, Council considered an update report on Planning for the Town Centre. One part of the final resolution was:

“That Council request staff to:

- 1. Undertake detailed design and feasibility assessment, including land assembly and approval procedures, and report-back for Council endorsement to implement:
 - i. Conversion of the Station Street sump site into a surface car park for public shopper parking time-managed using Meter Eye.”**

This item presents details on the proposal and recommends that Council call tenders for the supply of materials for the construction of a large drainage cell in the Station Street sump, capable of carrying all design traffic of a heavy use car park as a surface load, with no tender necessarily being accepted.

BACKGROUND

This matter was included in a Development Services agenda item in August, 2012, as part of an update report on Planning for the Town Centre.

There has been a long term expressed need for more parking in the Cottesloe commercial area. There has been previous Council debate and resolutions regarding the potential of locating a multi storey building, partially for additional car parking, on the large drainage sump area in Station Street to solve this lack of parking spaces.

At the same time, Cash in Lieu funds have accumulated and are currently in the order of \$400,000, as detailed in Councils budget document for 2012/13 under “Reserve Transfers Summary”. These funds must be spent on improved parking facilities within the area of the business locations originally contributing the funds.

Council has therefore requested information on a proposal to equip the Station Street sump with a modern below ground drainage structure, similar to several Cottesloe sumps previously equipped, on which would be installed a street level asphalt surfaced parking area, for public shopper parking, time managed with Meter Eye units. This would be funded from the Parking Reserve.

STRATEGIC IMPLICATIONS

In Council's 2006-2010 Future Plan, Objective 5 is "Maintain Infrastructure and Council Buildings in a Sustainable Way."

Major Strategy 5.3 within this objective states "Develop an Integrated Town Centre Plan to Improve all Aspects of the Infrastructure of the Town Centre." This proposed project is aimed at improving the Town Centre parking provision, as part of that strategy.

POLICY IMPLICATIONS

Council's "Engineering Programs – Long Term" applies.

STATUTORY ENVIRONMENT

Council owns the majority of the sump site and has the vesting control of the eastern end drainage reserve property. The drainage Reserve No. 40348 was originally under Main Roads WA control but was given over for Council vesting on the basis that drainage of Stirling Highway would always be permitted into that site. Council therefore has an obligation to have highway drainage water enter any new drainage installation in the sump. In addition, all cash in lieu funds must go towards the creation or improvement of parking facilities. Both of these requirements will be met in the proposed installation.

FINANCIAL IMPLICATIONS

Council has not budgeted to undertake this work in the 2012/2013 budget. However, the Parking Reserve is available and can be legally allocated to fund the work. The Parking Reserve was \$395,234 in July 2012 and is predicted to rise to \$409,510 by June 2013, with interest earned on the account. The estimated cost of the car park construction still appears adequate, the drainage cell component of cost had increased substantially.

SUSTAINABILITY IMPLICATIONS

The main sustainability objective is to install a system that allows for the removal of pollutants from drainage off Stirling Highway and town centre streets then direct the water into the below ground aquifer in the most efficient way.

CONSULTATION

No formal consultation on this proposal has taken place other than it being discussed with Procott. Debate over the development of this site has occurred for many years, with a variety of Council agenda items on the subject and local newspaper coverage.

STAFF COMMENT

Staff have arranged several conversions of open sumps into below ground soakage systems over four years during the Water Smart program. All such conversions have required heavy machinery to both drop cover soil and spread it over a variety of plastic components which make up the basis of the drainage 'cell'. There are many examples of major roads, car parks and sporting grounds being built and heavily used by traffic over such drainage cells, which are designed to carry such loadings.

It is quite possible to install a drainage cell, to receive drainage water from Stirling Highway and the commercial area streets, within the Station Street sump, then construct a car parking area of approximately 70 bays, with kerbing, line marking and landscaping over the drainage cell. This would be accessible from both the rear lane and Station Street.

The Station Street sump is located within No.'s 18, 20, 22, 24 and 26 Station Street. No. 26 is Reserve 40348 vested in Council for drainage purposes. No. 18 is in two parts, with a smaller rear section being a Water Corporation Sewer Pump Station. The larger portion of No.18, plus No.'s 20, 22 and 24 are owned 'fee simple' by the Town of Cottesloe. An inspection of the site revealed that there is an emergency outlet from the Water Corporation sewer pump station into the rear of No. 20. A letter has been sent to the Water Corporation requesting information on when / if Council ever agreed to this overflow. If possible, the pipe should be removed or relocated to flow into the southern portion of No. 18. This would allow full use of No.'s 20 to 26 as a drainage cell and parking area.

Originally an estimate was calculated for the total installation by using the costs of the most recent sumps converted by Council under the Water Smart program, with allowance for normal cost increases. Whilst the estimated cost of the car park construction still appears adequate, the drainage cell component of cost had increased substantially. Staff have investigated a variety of methods and products available for the construction of a drainage cell, including large concrete segments and purpose designed Gross Pollutant traps, large diameter high density plastic slotted pipes, plastic tunnel systems covered in crushed metal and wrapped in geotextile fabric and the plastic box system wrapped in geotextile fabric capable of being gully-educted to remove any pollutants not removed by Gross Pollutant Trap (GPT) systems.

Recent Indicative costs for material supply of these different systems have shown that the drainage cell, GPT system and connecting pipelines will be in the order of \$250,000 to \$300,000, plus installation costs of approximately \$40,000.

This means that the completed works may total on or above the \$400,000 available from the Car Parking Reserve Account. Given that materials supply will be in excess of \$100,000, a tender for supply would be required. If a tender is called and the successful tender amount is affordable by Council then a decision can be made at that time to proceed. Another alternative is to add to the available funds from the Property or Infrastructure Reserves.

VOTING

Simple Majority

COMMITTEE DISCUSSION

The Manager Engineering Services tabled a letter of concern from a resident regarding the proposed construction of the car park on the Station Street sump, specifically in relation to access, screening and noise.

Cr Pyvis suggested that Council also needed to consider the design and operation of the car park. Committee discussed amending the recommendation to include

community consultation on any car park design and landscape plan, in the event that a tender is accepted.

OFFICER RECOMMENDATION

Moved Cr Rowell, Seconded Mayor Morgan

THAT Council call a tender for the supply of materials for the construction of a large drainage cell in the Station Street sump, capable of carrying all design traffic of a heavy use car park as a surface load, with no tender necessarily being accepted.

AMENDMENT

Moved Cr Pyvis, Seconded Mayor Morgan

That the recommendation be amended to insert a point (1) before the words “call a tender”, and create a new point (2) that reads “Conduct community consultation on any car park design and landscape plan, in the event that a tender is accepted”.

Carried 5/0

COMMITTEE RECOMMENDATION

THAT Council:

- 1) Call a tender for the supply of materials for the construction of a large drainage cell in the Station Street sump, capable of carrying all design traffic of a heavy use car park as a surface load, with no tender necessarily being accepted.
- 2) Conduct community consultation on any car park design and landscape plan, in the event that a tender is accepted.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 5/0

10.2.2 PROPOSED SUBMISSION - PERTH BICYCLE NETWORK GRANTS 2013-2014

File No: SUB/725 & SUB/411
Attachments: [Copy of Perth Bicycle Network Grants 2013 2014 Application Guidelines](#)
[Copy of Cottesloe Local Bike Plan Table 6 2 Proposed Major Improvements](#)
[Copy of 2009 2010 Grant Submission](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest Nil

SUMMARY

The Department of Transport call for the annual Perth Bicycle Network Grants for 2013/2014 submissions has now been announced. Applications will close on the 26th October 2012 for a total of \$1.9 million in grant funds in a total of four categories. The Town of Cottesloe Bike Plan Review Working Group has had its first meeting and has recommended that a priority submission be made to convert the Forrest Street footpath from Curtin Avenue to Marine Parade to a dual use path, with a second submission to commence works to widen the Raia Roberts Foreshore dual use path.

BACKGROUND

In January 2009, Council's submission was made under the 2009-2010 Perth Bicycle Network Local Government Grants scheme for the conversion of the Forrest Street footpath to a dual use standard footpath from Curtin Avenue to Marine Parade. At that time, the estimated cost was \$99,000, and a grant of \$49,000 was requested. That application was successful but Council could not allocate the matching \$50,000 due to budget restrictions, so the grant was returned.

One basis for grant submission success is that the submitted projects should be included as priorities in existing Bike Plans. The newly formed Town of Cottesloe Bike Plan Review Working Group has determined that a project to widen a portion of the Raia Roberts Dual Use Path, on the west side of Marine Parade (at one end or the other), should be a second submission for a 50% cost grant. This project is included as a priority in the current Bike Plan. It has also been agreed to by Council for consideration in the draft 2013/2014 budget at a cost of \$50,000 for a section to commence a long term widening project.

STRATEGIC IMPLICATIONS

The Town of Cottesloe Future Plan 2006-2010 provides for bicycle use.

Objective 1 – Protect and enhance the lifestyle of residents and visitors.

Strategy 1.1 states “Develop an integrated transport strategy that includes park and ride, Cott Cat, Travelsmart, limited parking and the needs of pedestrians, cyclists and other non-vehicle traffic”; and in

Objective 3 – Enhance beach access and the foreshore.

Strategy 3.5 states “Improve bicycle and disabled access to beach facilities”.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

A submission for a grant in 2013/2014 for the Forrest Street project would entail a cost of approximately \$140,000, with Council having to fund 50% or \$70,000 (approximately). The Raia Roberts Dual Use Path project has already been accepted by Council for consideration of construction in 2013/14 at \$50,000 cost to Council. An application to undertake a project of \$100,000 cost at a 50/50 cost sharing basis is therefore proposed.

SUSTAINABILITY IMPLICATIONS

Increased dual use path use in the Town of Cottesloe is an acceptable sustainability aim of Council, to increase exercise and health of users and to promote forms of transport other than vehicles.

CONSULTATION

This occurred as part of the process to establish the Bike Plan in 2008, and also is a reason for the creation of the Town of Cottesloe Bike Plan Review Working Group.

STAFF COMMENT

There is only a short time to develop submissions for both of these projects before the submission closure date of 26th October 2012. The original Forrest Street submission from 2009 will form the basis of the new application. The Raia Roberts Dual Use Path submission will be based on the aim of annually completing widening or replacement sections of this path working from each end with an eventual connection onto a future upgraded Main Beach Foreshore Development between Eric Street and the Cottesloe Surf Life Saving Club. The works will also be aimed at removing cycle conflict points with pedestrians, with a new width of 3.0 meters.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION**Moved Cr Rowell, Seconded Cr Boland****THAT Council support staff submitting grant applications for the Perth Bicycle Network Grants Scheme for 2013/2014 for two projects as follows;**

- 1. Conversion of the Forrest Street pedestrian path to dual use standards, from Curtin Avenue to Marine Parade, Cottesloe.**
- 2. Widening or replacement of a section of Raia Roberts Dual Use Path to 3.0 meters, as a commencement of a long term project to widen the full length of this path, to eventually connect onto a redeveloped Cottesloe Main Beach foreshore area.**

Carried 5/0

10.3 FINANCE

10.3.1 STATUTORY FINANCIAL REPORTS FOR THE PERIOD 1 JULY 2012 TO 31 AUGUST 2012

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present to Council the Statement of Financial Activity and other supporting information for the period 1 July 2012 to 31 August 2012 as included in the attached Financial Statements.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocations.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Statement of Financial Activity on page 1 of the attached Financial Statements shows a year to date operating revenue of \$394,083 against a budgeted year to date figure of \$407,868. Operating expenditure is \$527,564 or 30% less than budgeted year to date, and of this, approximately \$308,984 relates to depreciation charges that have not been processed as the 2012 Annual Financial Statements have not yet been audited. All material variances are outlined in the Variance Analysis Report on

pages 7 to 9 of the attached Financial Statements. Capital expenditure is reported in detail on pages 26 to 29 of the attached Financial Statements.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Mayor Morgan questioned why a 3 meter wide path would be installed, rather than having a separate path for bikes and pedestrians. Cr Rowell advised that a line would be painted down the centre of the path to accommodate the different users, with signs to indicate bike and pedestrian use.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, Seconded Mayor Morgan

THAT Council the Statement of Financial Activity and other supporting information as included in the attached Financial Statements for the period 1 July 2012 to 31 August 2012, as submitted to the 18 September 2012 meeting of the Works and Corporate Services Committee.

Carried 5/0

10.3.2 LIST OF ACCOUNTS PAID FOR THE MONTH OF AUGUST 2012

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the list of accounts paid for the month of August 2012, as included in the attached Financial Statements, to Council.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocations.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The list of accounts paid in August 2012 is included in the report on pages 11 to 18 of the attached Financial Statements. The following significant payments greater than \$20,000 are brought to Councils attention;

- \$28,190.30 to WA Local Government Superannuation Plan for staff superannuation contributions.
 - \$34,368.12 to Cobblestone Concrete for various footpath works.
 - \$38,453.72 to LGISWA for first fifty per cent instalment of Council's property insurance.
 - \$31,224.94 to LGIS Insurance Broking for Council's plant and equipment insurance etc.
-

- \$156,450.30 to the Shire of Peppermint Grove for Councils first quarter contribution towards the Joint Library operations.
- \$53,916.05 & \$40,002.50 to Transpacific Cleanaway for monthly waste collection services for June and July 2012.
- \$24,057.98 to Jackson Macdonald for legal services in Town Planning.
- \$32,184.03 to the Shire of Peppermint Gove for Council's contribution towards the upgrading of the bore at the Library.
- \$29,802.13 & \$32,905.44 to WMRC for waste collection and disposal fees.
- \$74,029.36, \$74,947.28 & \$71,146.12 for fortnightly staff payroll.
- \$30,000 & \$100,000.00 to Councils Business Investment Account being transfers.
- \$475,000.00 & \$450,000.00 to Westpac Bank being new term deposits.
- \$475,000.00 to the National Australia Bank being a new term deposit.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, Seconded Mayor Morgan

THAT Council receive the List of Accounts Paid for the month of August 2012 as included in the attached Financial Statements, as submitted to the 18 September 2012 meeting of the Works and Corporate Services Committee.

Carried 5/0

10.3.3 SCHEDULES OF INVESTMENTS AND LOANS AS AT 31 AUGUST 2012

File No: SUB/150 AND SUB/151
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Schedule of Investments and the Schedule of Loans as at 30 September 2012, as included in the attached Financial Statements, to Council.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocations.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 21 of the attached Financial Statements shows that \$3,330,253.99 was invested as at 31 August 2012. Approximately 45% of these funds were invested with Westpac Bank, 38 % with National Australia Bank, 9% with the Commonwealth Bank and the remaining 8% with Bankwest.

The Schedule of Loans on page 22 of the attached Financial Statements shows a balance of \$6,208,229.62 as at 31 August 2012. included in this balance is \$380,753.94 that relates to self supporting loans.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, Seconded Mayor Morgan

THAT Council receive the Schedule of Investments and the Schedule of Loans as at 31 August 2012. These schedules are included in the attached Financial Statements as submitted to the 18 September 2012 meeting of the Works and Corporate Services Committee.

Carried 5/0

10.3.4 PROPERTY AND SUNDRY REPORTS AS AT 31 AUGUST 2012

File No: SUB/145
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 18 September 2012
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports as included in the attached Financial Statements, to Council.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 23 and 24 of the attached Financial Statements shows a balance of \$39,013.46 outstanding as at 31 August 2012. Of this amount, \$32,247.46 is current with the balance of aged debt \$6,766.00. The Rates and Charges Analysis on page 25 of the attached Financial Statements shows a total balance outstanding of \$3,653,912.88. Of this amount, \$205,419.76 and \$530,346.55 are deferred rates and outstanding emergency services levies respectively. The Statement of Financial Position on page 4 shows a balance of \$3,986,154 as compared to \$6,411,637 this time last year. This variance is mainly attributable to the due date being on 28 August 2012 this year whereas last year it was 8 September 2011.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, Seconded Mayor Morgan

THAT Council receive the Property and Sundry Debtors Reports as at 31 August 2012. These reports are included in the attached Financial Statements as submitted to the 18 September 2012 meeting of the Works and Corporate Services Committee.

Carried 5/0

11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:

12.1 ELECTED MEMBERS

Nil

12.2 OFFICERS

Nil

13 MEETING CLOSED TO PUBLIC

Nil

13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

Nil

14 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 8:35 PM.

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