

Ordinary Council Meeting

Minutes for 24 November 2014

UNCONFIRMED



**shire of
kalamunda**

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MINUTES

1.0 OFFICIAL OPENING

- 1.1 The Presiding Member opened the meeting at 6.35pm and welcomed Councillors, Staff and Members of the Public Gallery.

2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Councillors

Sue Bilich	(Presiding Member) (Shire President)	North Ward
Margaret Thomas JP		North Ward
Simon Di Rosso		North Ward
Noreen Townsend		South West Ward
Justin Whitten		South West Ward
Geoff Stallard		South East Ward
Frank Lindsey		South East Ward
John Giardina		South East Ward
Bob Emery		North West Ward
Dylan O'Connor		North West Ward

Members of Staff

Rhonda Hardy	Chief Executive Officer
Warwick Carter	Director Development Services
Charles Sullivan	Director Infrastructure Services
Gary Ticehurst	Director Corporate Services
Darrell Forrest	Manager Governance & PR
Andrew Fowler-Tutt	Manager Development Services
Nicole O'Neil	Public Relations Coordinator
Meri Comber	Governance Officer

Members of the Public 10

Members of the Press Nil

2.2 Apologies

Councillors

Allan Morton	South West Ward
Andrew Waddell JP	North West Ward

2.3 Leave of Absence Previously Approved Nil

3.0 PUBLIC QUESTION TIME

A period of not less than 15 minutes is provided to allow questions from the gallery on matters relating to the functions of Council. For the purposes of Minuting, these questions and answers are summarised.

3.1 Tim Colegate of Walliston asked the following questions at the Ordinary Council Meeting held on 27 October 2014. They were all taken on notice and appear now with their answers.

Q1. Regarding the proposed integrated aged care facility on Reserve 30314 Wilkins Road, Kalamunda: in case of major bushfire in the adjacent reserve, how does the Shire intend to evacuate the elderly residents?

A1. The facility would have an emergency evacuation plan detailing actions to be taken in such an event. Such facilities are encouraged to test their plan to ensure it is workable. In an emergency the Hazard Management Authority (HMA) would be made aware of such facilities and assistance would be offered. The Shire Local Emergency Management Committee (LEMC) includes a representative from the aged care industry.

Q2. Where would the elderly residents be evacuated to, and who would care for them?

A2. As specified in the evacuation plan.

Q3. How many beds in the proposed aged care facility will be reserved exclusively for existing residents of the Shire of Kalamunda?

A3. This is an operational question and cannot be answered at this time.

Q4. I understand that the Shire needs to provide additional information for the "preliminary documentation" approach for the Federal Government EPCB assessment of Reserve 30314. What additional information has the Shire been asked to provide?

A4. The Shire has been requested to provide information on how the proposed land use will prevent environmental impacts upon and manage the environmental values of the reserve.

Q5. If Reserve 30314 is developed, how does the Shire intend to enforce environmental protection of the adjacent reserves?

A5. Development will be limited to Reserve 30314

Q6. Can the Shire guarantee that the adjacent reserves will not be disturbed by construction and operation of the aged care facility?

A6. If an application is approved, it will be subject to a construction management plan which will be required to take into account the adjacent reserve. It is anticipated that provision of a buffer between development and the reserve will mitigate any impacts.

Q7. Will all vegetation clearing and bushfire hazard reduction occur internal to the boundary of Reserve 30314, or will the adjacent reserves be affected?

A7. Bushfire hazard reduction measures are expected to be contained within Reserve 30314. The adjacent reserve would be managed through normal practices such as periodic burning, as per the current management practices

Q8. Does Reserve 30314 or the adjacent reserves contain dieback? If so, and Reserve 30314 is developed, what measures will the Shire undertake to stop the further spread of this disease?

A8. This reserve on Wilkins Rd has not been assessed for dieback, therefore its dieback presence is unknown.

Any site works should always include the use of clean equipment and machinery, meaning it is void of soil which can harbour dieback and weed seeds. Before exiting the site the machinery is also required to be free of soil. Environmental Services have in the past and can provide an environmental induction to reinforce this and other matters with any contractors that may be working on this site in the future.

Q9 Given the extra bushfire risks, the environmentally sensitive nature of the area and construction challenges due to the underlying cap-rock, why does the Shire think an aged care provider will want to develop this site, given that the Hall and Prior site in High Wycombe still does not have an aged care facility built on it?

A9. Integrated aged care facilities are required in every locality in the Shire. As with any proposal, a developer will need to ascertain the opportunities and constraints of the site, before deciding whether to proceed or not. The Shire has had numerous aged care providers make contact to indicate an interest in developing the site.

3.2 Mr Phil Dadd, Gooseberry Hill

Mr Dadd referred to Item 10.1.11 (D&I 59) Proposed Change of Use (From Single Dwelling to Place of Worship) – Lot 200 (219) Gooseberry Hill Road, Maida Vale on this Agenda and noted that point (f) indicates a geo-technical report is required; he asked if this would be the case when no building will take place. The Director Development Services indicated that this would normally apply to buildings, however it can also relate to septic systems and to ensure waste and rain water are contained on site.

4.0 PETITIONS/DEPUTATIONS

4.1 Petition

The Chief Executive Officer advised that a Councillor had submitted a Petition on behalf of 30 people with respect to 10.1.4 (D&I 60 Change of Use (from Single Dwelling to Child Care Premises) – Lot 70 (32) Central Road, Kalamunda. The Petition requested the item be deferred pending a thorough investigation of the issues that have been raised.

4.2 Deputation

A Deputation was presented by Colin Beeby and Sue Gosling-Smith of Kalamunda, with regard to Item 10.1.4 (D&I 60) Change of Use (From Single Dwelling to Child Care Premises) – Lot 70 (32) Central Road, Kalamunda. Colin Beeby circulated a hand out for each Councillor, they spoke against the Committee Recommendation and asked that the item be deferred pending further investigation by the Shire of Kalamunda.

Sue Gosling-Smith made reference to a recent accident on Central Road and a Councillor asked the ages of the drivers; she responded they were a woman in her mid-thirties and P-Plate driver with his father.

A Councillor commented that the problems relayed to Council seem to focus more on the dangers of the road than of the development and asked the deputation if they were using this as a way to ensure some work is done at this intersection. Sue Gosling-Smith noted that her concern was the increased traffic in the area.

4.3 Deputation

A Deputation was presented by Carolyn Babbage of Carmel, on behalf of the Chamber of Commerce in relation to Item 10.4.2 Memorandum of Understanding with Kalamunda Chamber of Commerce and Item 10.4.3 Sponsorship Agreement with Kalamunda Chamber of Commerce. Carolyn Babbage is the President of the Chamber of Commerce and spoke in favour of the Recommendations in the Chief Executive Officer Reports, she urged Councillors to pass the motions.

A Councillor outlined concerns regarding any union with the Chamber of Commerce if they had any links with party politics and asked if a clause was added to the Memorandum of Understanding indicating they would not be involved with party politics would there be any apprehension. Carolyn Babbage indicated she would be happy with such an amendment.

A Councillor asked what was meant by noting that a Sponsorship Agreement would free up money for the Chamber to use on sustainable development. Carolyn Babbage indicated funds could be used for professional training for their member businesses.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

5.1 Nil.

6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

6.1 RESOLVED OCM 164/2014

That the Minutes of the Ordinary Council Meeting held on 27 October 2014, as published and circulated, are confirmed as a true and accurate record of the proceedings.

Moved: **Cr John Giardina**

Seconded: **Cr Geoff Stallard**

Vote: **CARRIED UNANIMOUSLY (10/0)**

7.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

7.1 The Shire President announced there will be an extension to the public comment period for the Ray Owen Reserve Master Plan until 23 January 2015 and full details are included in a memorandum to Councillors on their desks this evening.

8.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

8.1 C&C 53. CONFIDENTIAL REPORT - Consideration of Tenders Forreestfield Skate Park (RFT 1403)

Reason for Confidentiality Local Government Act 1995 S5.23 (d) (c) – “a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting.”

8.2 10.4.4 CONFIDENTIAL REPORT - Chief Executive Officer's Performance Review

Reason for Confidentiality – Local Government Act 1995: Section 5.23(2) (a), “a matter affecting an employee or employees”.

9.0 DISCLOSURE OF INTERESTS

9.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Section 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

9.1.1 The Chief Executive Officer disclosed a Direct Financial Interest with regard to Item 10.4.4, Confidential Report – Chief Executive Officer's Performance Review as the report relates to the Chief Executive Officer's salary and employment at the Shire of Kalamunda”.

9.2 Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

9.1.2 Cr John Giardina disclosed an Interest Affecting Impartiality with regard to items 10.4.2 – Memorandum of Understanding with the Kalamunda Chamber of Commerce and 10.4.3 – Sponsorship Agreement with Kalamunda Chamber of Commerce as he is a member of the Kalamunda Chamber.

10.0 REPORTS TO COUNCIL

Please Note: declaration of financial/conflict of interests to be recorded prior to dealing with each item.

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

10.1 Development & Infrastructure Services Committee Report

10.1.1 Adoption of Development & Infrastructure Services Committee Report

Voting Requirements: Simple Majority

RESOLVED OCM 165/2014

That recommendations D&I 57 to D&I 66 inclusive, contained in the Development & Infrastructure Services Committee Report of 10 November 2014, except withdrawn items D&I 59 and D&I 60 be adopted by Council en bloc.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY (10/0)**

10.1.2 D&I 57 Amendment No. 65 to Local Planning Scheme No. 3 - Rezone from Local reserve -Public Purpose (Hall/Community Centre) to Special Rural – Lot 5 (33) Lewis Road, Wattle Grove

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Adopts the amendment to Local Planning Scheme No. 3 without modification, in accordance with the following:

PLANNING AND DEVELOPMENT ACT 2005
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING
SCHEME
SHIRE OF KALAMUNDA
LOCAL PLANNING SCHEME NO. 3
AMENDMENT NO. 65

Resolved that the Council in pursuance of Part 5 of the *Planning and Development Act 2005* amend the above Local Planning Scheme by:

1. Rezoning Lot 5 (33) Lewis Road, Wattle Grove, from Public Purpose (Hall/Community Centre) to Special Rural.
2. Amends the Scheme zoning map accordingly.
3. Duly executes the Amendment documents and forwards them to the Minister for Planning requesting final approval be granted.

**10.1.3 D&I 58 Amendment No. 66 to Local Planning Scheme No. 3 –
Modifications to the Zoning Table for the Land Uses Home
Business, Chalets (Short Term Accommodation) and Restaurant**

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Notes the submissions received in response to Amendment No. 66 to Local Planning Scheme No. 3.
2. Adopts the amendment to Local Planning Scheme No. 3 without modification, in accordance with the following:

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING
SCHEME

SHIRE OF KALAMUNDA

LOCAL PLANNING SCHEME NO. 3

AMENDMENT NO. 66

Resolved that the Council in pursuance of Part 5 of the *Planning and Development Act 2005* amend the above Local Planning Scheme by:

1. Modifying Table 1 (Zoning Table) as follows:
 - a) The land uses Restaurant and Chalets (Short Term Accommodation) become 'A' uses in the Rural Conservation and Rural Agriculture zones; and
 - b) The land use Home Business becomes a 'D' use in the Special Rural zone.

3. Amends the Scheme text accordingly.
4. Duly executes the Amendment documents and forwards them and the submissions received to the Minister for Planning requesting final approval be granted.

10.1.4 D&I 61 Mixed Use Development – Lot 1 (42) Cumberland Road, Forrestfield

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Determines that the use 'Multiple Dwellings' is consistent with the objectives of the residential zone and is therefore permitted.
2. Recommends to the Development Assessment Panel that it approves the application dated 11 September 2014 to build a mixed use development at Lot 1 (42) Cumberland Road, Forrestfield, subject to the following conditions:
 - a. The access way shall be suitably constructed, sealed and drained to the satisfaction of the Shire.
 - b. Vehicle parking, manoeuvring and circulation areas to be suitably constructed, sealed, kerbed, line marked and drained to the satisfaction of the Shire.
 - c. The provision and maintenance of a total of 100 car spaces including a minimum of one disabled bay.
 - d. A landscaping plan being submitted to and approved by the Shire prior to the building licence being issued. This is to include shade trees for the uncovered car parking bays and verge treatment along the adjoining portion of Cumberland Road.
 - e. The proposed landscaping being planted within 28 days of the proposed development's completion, and maintained thereafter by the landowner (Strata management group) to the satisfaction of the Shire.
 - f. Stormwater being contained on site to the satisfaction of the Shire.
 - g. The applicant making the necessary arrangements for a waste bin contractor to enter the property and service the receptacles from the designated bin storage enclosures.
 - h. The development shall be connected to reticulated sewer.
 - i. A nuisance and noise assessment being submitted to and approved by the Shire prior to the issue of a building licence.
 - j. The external colour and material details of the proposed dwellings being provided to, and approved by the Shire prior to the building licence being issued.
 - k. A Construction Management Plan be prepared by the applicant addressing the following, but not limited to:
 - Construction Workers' Parking
 - Material's Delivery and Storage
 - Worker's ToiletsTo the satisfaction of the Shire, prior to the issue of a Building Licence.

10.1.5 D&I 62 Proposed Modification to Cell 9 Wattle Grove Structure Plan – Lot 6 (287a) Hale Road, Wattle Grove

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Adopts the proposed modification to the Structure Plan to increase the density coding of Lot 6 (287a) Hale Road, Wattle Grove from R20 to R25.
2. Forwards the modified Cell 9 Wattle Grove Structure Plan to the Western Australian Planning Commission for endorsement.

10.1.6 D&I 63 Detailed Area Plan – Lot 2 (84) St John Road, Wattle Grove

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Adopt the proposed Detailed Area Plan relating to Lot 2 (84) St John Road in accordance with 6.2.6(c) of the Shire of Kalamunda Local Planning Scheme No. 3.
2. Forward the proposed Detailed Area Plan, once adopted, to the Western Australian Planning Commission for information.

10.1.7 D&I 64 Proposed Deferral of Developer Contribution Payment for an Approved Subdivision - Lot 2 (84) St John Road, Wattle Grove

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Support the request by Gentylbene Pty Ltd defer the developer contribution payment required for the approved subdivision application at Lot 2 (84) St John Road, Wattle Grove, for a period of two months from the date the subdivision clearance is issued, subject to the following:
 - a. A legal agreement being prepared to the Shire's satisfaction, and at the landowner's expense, which stipulates the development contribution payment being deferred for a maximum of two months, this being from the date the subdivision clearance is issued.

- b. A caveat being place on the balance of the property's Title prior to the subdivision clearance being issued, and at the landowner's expense, requiring the payment of the developer contribution to be made to the Shire.
- c. In accordance with clause 7.4 of Schedule 11 of the Local Planning Scheme No.3, interest on the outstanding developer contribution payment shall be charged at the interest rate prescribed in section 31 of the *Supreme Court Act 1935*.

10.1.8 D&I 65 Metropolitan Region Scheme Amendment – re-zoning land bounded by Welshpool Road East, Tonkin Highway and the City of Gosnells boundary from Rural to Industrial

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Request the Western Australian Planning Commission to initiate an amendment to the Metropolitan Region Scheme to include all existing zoned land within the area shown on the plan included (Attachment 2) in the Industrial Zone.

10.1.9 D&I 66 Request to Purchase a Portion of Reserve R37218 – 19 Dampiera Court, Maida Vale

EN BLOC RESOLUTION OCM 165/2014

That Council:

1. Notes the submissions in (Attachment 1).
2. Advises the Department of Lands that it does not support the closure and subsequent sale of a portion of Reserve R37218 – 19 Dampiera Court Maida Vale.
3. Advise the applicant that the closure is not supported.

For Separate Consideration

Items D&I 59 & D&I 60 were withdrawn for separate consideration. Regarding D&I 59, an Amendment had been proposed at the Development & Infrastructure Services Committee Meeting and the Presiding Member requested the Committee Vote on the Officer Recommendation at that time with the proviso the item be considered separately at the Ordinary Council Meeting; information had been circulated to Councillors and no Amendment was put forward at this meeting.

10.1.10 D&I 59 Proposed Change of Use (From Single Dwelling to Place of Worship) – Lot 200 (219) Gooseberry Hill Road, Maida Vale

RESOLVED OCM 166/2014

That Council:

1. Approves the application dated 27 August 2014 to change the existing Single Dwelling at Lot 200 (219) Gooseberry Hill Road, Maida Vale to a Place of Worship, subject to the following conditions:
 - a. The provision and maintenance of a total of 20 car spaces including a minimum of one disabled bay.
 - b. The crossover shall be designed and constructed to the satisfaction of the Shire.
 - c. Vehicle parking, manoeuvring and circulation areas, except for the overflow area, to be suitably constructed, sealed, kerbed, line marked and drained to the satisfaction of the Shire.
 - d. A landscaping plan being submitted to and approved by the Shire prior to the use commencing.
 - e. The proposed landscaping being planted within 28 days of the proposed development's completion, and maintained thereafter by the landowner to the satisfaction of the Shire.
 - f. A geo-technical report being submitted to and approved by the Shire within 28 days of this decision.
 - g. Stormwater is contained on-site, or appropriately treated and connected to the local drainage system to the specification and satisfaction of the Shire.
 - h. The property not being used for Community Purpose or Club Premises purposes as defined under Local Planning Scheme No. 3.
 - i. A new effluent disposal system that complies with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulation 1974* is to be installed to the Shire's satisfaction.
 - j. All existing septic sewer systems including all tanks, pipes and associated drainage systems (soakwells or leach drains) are to be decommissioned, removed, filled with clean sand and compacted. The applicant must provide a statutory declaration to the Shire of Kalamunda stating that the site has been inspected and all effluent disposal systems have been removed. A pro-forma for this declaration is available from the Shire.

- k. The applicant is required to engage an appropriately qualified acoustic consultant (such as a member of the Australian Acoustical Society or the Association of Australian Acoustical Consultants) to undertake a detailed noise assessment in relation to the *Environmental Protection (Noise) Regulations 1997* to the satisfaction of the Shire prior to commencing the development. Where such an assessment finds the proposal fails to meet the legislative limits the proponent must submit a noise mitigation plan for approval of the Shire prior to commencing the development.
 - l. Services only being permitted to be held on Mondays between 6.30pm and 7.30pm, and on Sundays between 6.00am and 7.00am.
 - m. Prior to any external lighting being installed/erected, a lighting plan is to be submitted to and approved by the Shire.
2. Accepts the undertaking given by the applicant/landowner to:
- a. Undertake to, upon the Trustees (or any subsequent trustees of the Trust or any other trust or entity related to and associated with the Plymouth Brethren Christian Church (the Church) deciding to transfer the Property to an unrelated third party, advise the Shire as to the same, and make application to change the use of the Property from a "Place of Worship" to "Residential".
 - b. In any event, hereby give the Shire the authority to make the application to change the use of the Property from a "Place of Worship" to "Residential" in the event that the Property is to be transferred out of the ownership of the Church and to an unrelated third party.
 - c. Are willing to allow a section 70A Notification to be lodged over the Property prior to occupation of the same, confirming either or both of paragraphs 1 and 2 above, this being undertaken at the cost of the Trustees.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY (10/0)**

Councillors debated the Committee Recommendation. Three questions were asked by Councillors. What can the Shire do to modify the road to improve safety? The Director Infrastructure Services responded that this is currently being examined; parking and speeding controls could be implemented that may help. Have there ever been any approvals given for parking in the side ally? The Director Development Services responded that it would be the same as parking in any Public Access Way, with no parking restrictions apart from not leaving vehicles for more than 24 hours. Is the Road Traffic Assessment entirely credible? The Director Development Services noted this was carried out on-site, by a reputable Traffic Engineer and was approved by both Infrastructure and Planning Engineers at the Shire of Kalamunda.

10.1.11 D&I 60 Change of Use (From Single Dwelling to Child Care Premises) - Lot 70 (32) Central Road, Kalamunda

RESOLVED OCM 167/2014

That Council:

1. Approves the application dated 2 September 2014 for a child care premises at Lot 70 (32) Central Road, Kalamunda, subject to the following conditions:
 - a. The access way and crossovers shall be suitably constructed, sealed and drained to the satisfaction of the Shire.
 - b. Vehicle parking, manoeuvring and circulation areas to be suitably constructed, sealed, kerbed, line marked and drained to the satisfaction of the Shire.
 - c. The provision and maintenance of a total of 17 car spaces including a minimum of one disabled car bay. All car parking and vehicle access ways being line marked, sealed and drained prior to the occupation of the building and maintained thereafter by the landowner to the satisfaction of the Shire.
 - d. The development shall be connected to reticulated sewer.
 - e. The pedestrian footpath being constructed and drained to the Shire's satisfaction.
 - f. Prior to the construction of the car parking bays, the applicant is required to liaise with the Shire regarding the provision of sufficient space around existing trees to be retained on site.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Frank Lindsey**

Vote:	For	Against
	Cr Frank Lindsey	Cr John Giardina
	Cr Noreen Townsend	Cr Geoff Stallard
	Cr Bob Emery	Cr Justin Whitten
	Cr Dylan O'Connor	Cr Sue Bilich
	Cr Simon Di Rosso	
	Cr Margaret Thomas	
	CARRIED (6/4)	

10.2 Corporate & Community Services Committee Report

10.2.1 Adoption of Corporate & Community Services Committee Report

Voting Requirements: Simple Majority

RESOLVED OCM 168/2014

That the recommendations C&C 48 to C&C 53 inclusive, contained in the Corporate & Community Services Committee Report of 17 November 2014, except withdrawn item C&C 52, be adopted by Council en bloc.

Moved: **Cr Bob Emery**

Seconded: **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY (10/0)**

10.2.2 C&C 48 Debtors and Creditors Report for the Period Ended 31 October 2014

EN BLOC RESOLUTION OCM 168/2014

That Council:

1. Receives the list of payments made from the Municipal Accounts in October 2014 (Attachment 1) in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996 (Regulation 12)*.
2. Receives the list of payments made from the Trust Accounts in October 2014 as noted in point 11 above in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996 (Regulation 12)*.
3. Receives the outstanding debtors (Attachment 2) and creditors (Attachment 3) reports for the month of October 2014.

10.2.3 C&C 49 Rates Debtors Report for the Period Ended 31 October 2014

EN BLOC RESOLUTION OCM 168/2014

That Council:

1. Receives the rates debtors report for the period ended 31 October 2014 (Attachment 1).

10.2.4 C&C 50 Quarterly Progress Report – July-September 2014

EN BLOC RESOLUTION OCM 168/2014

That Council:

1. Receives the Quarterly Progress Report for July – September 2014 (Attachment 1).

10.2.5 C&C 51 Schedule of Council and Committee Meetings 2015

EN BLOC RESOLUTION OCM 168/2014

That Council:

1. Endorses the Schedule of Committee and Council Meetings (Attachment 1) for the period February 2015 to June 2015.

This item had been withdrawn in the Agenda as it was a Confidential Item, however the Presiding Member asked Council if they would be happy to consider the item en bloc.

**10.2.6 C&C 53 CONFIDENTIAL REPORT - Consideration of Tenders –
Forrestfield Skate Park (RFT 1403)**

Reason for Confidentiality *Local Government Act 1995 S5.23 (d) (c) – “a contract entered into, or which may be entered into, by the local government which relates to a matter to be discussed at the meeting.”*

EN BLOC RESOLUTION OCM 168/2014

That Council:

1. Approve the tenders for the Design and Construction of a new Skate Park facility at the Hartfield Park Reserve in Forrestfield as follows:
 - a) Contract 1 – Skate Sculpture for a fixed contract price of \$34,550 (ex GST).
 - b) Contract 2 – GranoTek Consulting for a fixed contract price of \$385,000 (ex GST).

For Separate Consideration

Item C&C 52 was withdrawn at the request of a Councillor who foreshadowed an amendment to Point 3. as following the change made to the Officer Recommendation at the Committee Meeting, the wording "and the current timing of the approval process through the Minister for Planning", was no longer necessary.

The Mover and Seconder to the substantive motion were both happy with the change and a vote was taken.

10.2.7 C&C 52 Petition requesting approval and completion of playground at Public Open Space on Bluebell Avenue, High Wycombe

RESOLVED OCM 169/2014

That Council:

1. Receives the petition for the approval and completion of a playground and associated infrastructure at the Bluebell Avenue Public Open Space (Attachment 1).
2. Council supports the development of a playground using municipal funds, with funds considered as part of the Quarterly Budget Review Process.
3. Requests the Chief Executive Officer to advise the petitioner, Heather Chappel in writing of Council's resolution in relation to the Bluebell Avenue Public Open Space Petition. ~~and the current timing of the approval process through the Minister for Planning.~~

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Sue Bilich**

Vote: **CARRIED UNANIMOUSLY (10/0)**

10.3 Audit & Risk Committee Report

10.3.1 Adoption of Audit & Risk Committee Report

Voting Requirements: Simple Majority

RESOLVED OCM 170/2014

That the recommendations A&R 18 to A&R 22 inclusive, contained in the Audit & Risk Committee Report of 17 November 2014, except withdrawn item A&R 21, be adopted by Council en bloc.

Moved: **Cr Dylan O'Connor**

Seconded: **Cr Justin Whitten**

Vote: **CARRIED UNANIMOUSLY (10/0)**

10.3.2 A&R 18 Internal Audit Report October 2014

EN BLOC RESOLUTION OCM 170/2014

That Council:

1. Notes the Internal Audit Plan for 2014/15 (Attachment 1).
2. Notes the Internal Audit Assessment of Key Control Activities and Recommend Monitoring Activities (Attachments 2 and 3).
3. Notes the Audit Risk Register (Attachment 4).
4. Notes the following recommendations included in the Internal Audit Report for October 2014 (Attachment 5).

Agendas and Minutes

- Signed minutes from June 2013 onwards need to be dated.
- Minutes from January 2013 to June 2014 should be bound and placed in the safe.
- All unbound minutes should be stored within the fire proof room for safe keeping.

Annual Report

An independent review checklist is used to ensure the annual report is prepared in accordance with legislation for content, prepared and audited by the due date and submitted to the Department within 30 days of receipt of the auditor's report.

Monthly Statements of Financial Activity

- Consideration be given to reducing the financial information given to Council unless there is specific reason or need for the additional information. There is no statutory requirement to have a full set of statements for

monthly reporting These are normally only required for annual financial statements such as:

- o Statement of Comprehensive Income by Nature & Type
- o Statement of Comprehensive Income by program
- o Statement of Cash Flow
- o Statement of Financial Position by Nature and Type
- o Statement of Changes in Equity

Code of Conduct

When the new Codes of Conduct are introduced it would be beneficial to conduct some internal training for elected members and employees in order to understand their new Codes.

Creditors Payments

Suppliers of goods and services will be advised that invoices will not be processed if there is no purchase order, and that the purchase order number must be on the invoice.

Staff to be provided with training on procurement and tendering to ensure they understand the proper processes to be followed.

Succession Planning

A succession plan is introduced and implemented to ensure key personnel have suitable staff to fill their roles in crucial areas within the organisation.

10.3.3 A&R 19 Risk Management Review 2014

EN BLOC RESOLUTION OCM 170/2014

That Council:

1. Receives the findings and recommendations contained in the Internal Auditors Risk Management Review (Attachment 1).
2. Endorses the Risk Management Policy (Attachment 2), Risk Management Procedure (Attachment 3) and the Integrated Risk Management Plan (Attachment 4).
3. Notes the Crisis & Business Continuity Management Plan (Attachment 5).
4. Notes the Strategic Risk Register (Attachment 6).

10.3.4 A&R 20 2013/14 Integrated Planning and Reporting Assessment

EN BLOC RESOLUTION OCM 170/2014

That Council:

1. Notes the result and comments received from the Department of Local Government and Communities on the assessment of the Shire of Kalamunda's Integrated Planning and Reporting Framework.

10.3.5 A&R 22 Adoption of Annual Financial Report 2013/2014

EN BLOC RESOLUTION OCM 170/2014

That Council:

1. Pursuant to Section 6.4 of the *Local Government Act 1995*, accepts the 2013/2014 Annual Financial Report (Attachment 1).
2. Pursuant to Section 7.12 (3) of the *Local Government Act 1995*, notes the response to the issue raised by the Auditor in the Management Report (Attachment 2).
3. Request the Chief Executive Officer to ensure the Annual Financial Statements are forwarded to the Department of Local Government & Communities before the due date required.

For Separate Consideration

A&R 21 was withdrawn for separate consideration as a Councillor wished to compare the previous Code of Conduct with that presented to the meeting. This has been circulated to all Councillors and the original Officer Recommendation was again presented.

The Councillor was happy with the updated Codes of Conduct as presented and the Officer Recommendation was considered by Council.

10.3.6 A&R 21 Policy Review – Code of Conduct

RESOLVED OCM 171/2014

That Council:

1. Pursuant to section 5.103 (1) of the *Local Government Act 1995*:-
 - Adopts the Code of Conduct for Elected Members (Attachment 1)
 - Adopts the Code of Conduct for Employees (Attachment 2)
2. Revokes the current Code of Conduct Policy ADM 5.

Moved: **Cr Simon Di Rosso**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (10/0)**

10.4 CHIEF EXECUTIVE OFFICER REPORTS

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

10.4.1 Draft Monthly Financial Statements to 31 October 2014

Previous Items	N/A
Responsible Officer	Director Corporate Services
Service Area	Finance
File Reference	FIR-SRR-006
Applicant	N/A
Owner	N/A

Attachment 1 Draft Statements of Financial Activity for the months to 31 October 2014 incorporating the following:

- Statement of Comprehensive Income by Nature and Type
- Statement of Comprehensive Income by Program
- Statement of Cash Flow
- Statement of Financial Position
- Statement of Financial Activity (Nature or Type)
- Statement of Financial Activity (Statutory Reporting Program)
- Net Current Funding Position, note to financial statement
- Statement of Changes in Equity
- Reserves – Cash / Investment Backed – note to financial statement
- Investment Schedule – note to financial statement

PURPOSE

1. To provide Council with financial reports on the activity of the Shire of Kalamunda with comparison of year to date performance against adopted budget. This Statement compares the actual year to date with the budget year to date.

BACKGROUND

2. The Statement of Financial Activity (Attachment 1), incorporating various sub-statements, has been prepared in accordance with the requirement of the *Local Government Act 1995, Local Government (Financial Management) Regulations 1996* (Regulation 34).
3. Whilst the Audit of the 2013/14 financial statements has now been completed, it occurred after the end of October, therefore the opening funding position in the Statement of Financial Activity statement reflects the un-audited position. The position could be affected by final year end journals or agreed audit adjustments.
4. The budget column reflected matches to the budget approved by Council at its meeting on 23 June 2014.

DETAILS

5. The *Local Government Act 1995* requires Council to adopt a percentage or value to be used in reporting variances against Budget. Council has adopted the reportable variances of 10% or \$50,000 whichever is greater.

Financial Commentary

Draft Statement of Comprehensive Income by Nature and Type for the months to 31 October 2014

6. This Statement reveals a net result surplus of \$27,188,506 against budget for the same period of \$24,257,503. The principal reason for the variance is that employment costs and materials and contracts are under-spend and lower than forecast depreciation charges.

Revenue

7. Total Revenue is under budget by \$37,163. This is made up as follows:
- Rates are under budget by \$120,573. The variance is due to timing which will be offset by the receipt of cash in lieu rates and additional interim rates.
 - Operating Grants, Subsidies and Contributions are over budget by \$348,118. The principal reason for the significant variance is due to the advanced payment from the State Government related to the HACC programme.
 - Fees and Charges variance are under budget by \$182,534 of which \$128,851 is related to waste fees. This is due to one of the commercial users deciding no longer use the Shire provided service. The reduction in fees will be reflected in lower waste collection costs.
 - Interest earnings are down by \$86,459 which is the combination of:
 - Lower interest income from deposits with Approved Deposit taking Institutions (ADI's) where the returns are lower than the predicted cash rate set by the Reserve Bank of Australia (RBA). The returns will be further constrained with the implementation of Basel III banking regulations which are effective from 1 January 2015, which requires all ADI's to keep a higher capital ratio against their liabilities. Forecasting of the Shire's cash flows will become critical; and
 - The completion of the rates instalment options which results in the recognition of interest payable for those ratepayers who have opted to go on instalment options. This is seen to be a timing matter and will correct itself over the next few months.
 - Other Revenue is slightly under budget by \$4,285, which mainly relates to infringements based on successful prosecutions for dog attacks. Most "Other Revenues" comprise of various fines and penalties which are difficult to predict.
-

Expenditure

8. Total expenses are under budget with a variance of \$2,374,767. The significant variances within the individual categories are as follows:
- Employment Costs are under budget by \$755,276 due to some vacant positions in various business units. An accrual for back pay worth \$335,118 is yet to be paid as a result of the enactment of new Enterprise Bargaining Agreement (EBA).
 - Materials and Contracts is over budget by \$337,390 largely due to:
 - Refuse collection charges being greater than budget by \$268,715. This is mainly related to timing differences. However being a critical area it will need to be monitored closely;
 - Building maintenance is up by \$84,999, reflecting higher winter season demands and work involved with bringing the Women's Powder Room building up to an acceptable standard.
 - Utilities were under budget by \$112,626. The variance is primarily due to timing differences in electricity billing although there have been some instances of in-correct billing by Synergy which has been queried back to the utility provider. These are under investigation with the provider. Street lighting is under budget by \$44,950 and forms part of the variance mentioned above.
 - Insurance expense is under budget by \$85,059 which is attributed to two things:
 - The revaluations of land and buildings. As the insurance values of the buildings have dropped, the premiums have dropped by \$40,435 with a further credit of approximately \$20,000 in the coming months; and
 - A review and clean-up of heavy plant equipment schedules resulting in lower premiums by \$46,038. The premium was lowered due to a renegotiation of the premium rate from 1.7 to 1.2%.
 - Other insurances such as workers compensation became lower due to lower in the area of Occupational Safety and Health incidents.
 - Other expenditure is under budget by \$1,022,227, with the bulk of the variance made up of the underground power project of \$1,000,000. This is due to a timing difference.
 - The interest expense is slightly under budget by \$12,149, which is the result of a timing difference between amounts accrued and the budget which is based on the debenture payment schedule.
 - Depreciation, although a non-cash cost, is tracking well under budget, reporting a variance of \$724,820. The reason for the variance can be attributed to the buildings depreciation which has significantly reduced due to the valuation exercise undertaken at the end of the 2013/14 financial year. The expense posted is preliminary and is subject to change once the 2013/14 year end audit is completed.
-

Non-Operating Grants

9. The grant income is higher by \$724,820 with acquittal of various Main Roads' projects resulting in \$482,187. The rest is related to the first quarter of Financial Assistance Grant Scheme.

Profit / (Loss) on Asset Disposals

10. The variance of \$118,276 relates mainly to property sales. There was no movement in this area with delays on the sale of the Lewis Road property. Settlement on the property sale is scheduled for mid-November 2014.

Draft Statement of Comprehensive Income by Program for the month to 31 October 2014

11. The overall result comments are as above and generally each Program is within accepted budget except for Recreation and Culture and Community Amenities. Major variances have been reported by Nature and Type under points 8 to 10 above.

Draft Statement of Financial Activity for the month to 31 October 2014

12. The results to 31 October 2014 discloses a closing surplus of \$32,726,684 made up of:
- Overall income, excluding rates, is under budget by \$34,866 which is as reported above mainly emanating from refuse collection fees.
 - Expenditure is \$2,374,604 under budget forecast with the main variance in Employment Costs, Depreciation and Other expenditure. These have been commented on in Point 8 of this report.
 - Infrastructure projects made up of roads, drainage, footpaths, car parks and parks and ovals has incurred \$601,448 against the budget of \$3,970,008. This variance is due to a timing difference as several projects start on ground works. Significant work in the areas of design have been done. The budget review will give a better picture on whether there is a need to rephrase some of these projects but also bear in mind that time is running out and resources are finite.
 - \$526,885 unspent on land and building renewal budget. This is due to the same as the point above.
 - Rates generation is under budget and the variance of \$120,573 relates to lower volume of interim rates processed as explained previously in Point 7 above.
13. The closing current position of \$32,726,684 is above year to date budget of \$25,589,020. This is due to reduced spend on staff costs, underground power, capital works and project based activities reflected in the report above.

Draft Investments Schedule as at 31 October 2014

14. A total of \$29.12 million is in municipal and reserve term deposits or online savings accounts which is comparable to previous month's balance of \$26.96 million. The slight increase in the cash holdings is attributed to the finalisation of the first rates instalment date on 14 October 2014. Inflows on capital grants has started coming through to supplement the operation working capital requirements for October 2014.

15. The above is made of:

Municipal Funds	Reserve Funds	Trust Monies
\$21,393,696	\$2,631,839	\$14,373,145 (includes amounts for Public Open Space of \$2,277,538)

16. Average interest rates on term deposits have dropped significantly as indicated previously with current investment rates dropping to between 3.0% and 3.50%. Reserve Bank of Australia (RBA) cash rate is at 2.5% with an increasing probability of further rate cuts expected as business confidence and retail spend continues to lag and unemployment creeps upwards.

17. All deposits complied with the Investment Policy requirements and are no longer than 120 days.

Draft Statement of Financial Position as at 31 October 2014

18. The commentary on the Financial Position is based on comparison of the draft October 2014 year to date actuals with October 2013 year to date actuals.

19. Net Current Assets (Current Assets less Current Liabilities) show a positive result of \$33.03 million. The un-restricted cash position has a positive balance of \$26.66 million which is comparable to the previous year's balance of \$24.99 million. This can be attributed to lower cash utilisation as projects have not reached the critical mass point.

20. Trade and other receivables comprise of rates and sundry debtors totalling \$10.32 million outstanding.

The rates balance has reduced by \$3.2 million to \$10.95 million in the month due to the first instalment date being 14 October 2014. This represents a collection rate of 64.35% to date.

21. Sundry debtors have increased upwards to \$691,466. Of the outstanding, \$464,590 relates to developer contributions for the Forrestfield/High Wycombe Industrial Area. The other main overdue sundry debtor is:

- Discovery Parks \$81,920. A reminder notice has been sent out. This amount relates to waste charges for 2013/14. Recovery negotiations are underway.

22. Fixed Assets additions are tracking higher than last year's actuals to date by \$3.98 million in the asset category of infrastructure projects. Strategies are being put in place to improve the delivery of infrastructure projects.
23. Property, Plant and Equipment has been adjusted for the Land and Buildings valuation which is now finalised. We have reduced the depreciation charge on the buildings in line with the final valuation results.
24. Provisions for annual and long service leave have stabilised as per last month to \$2.3 million. It is expected this will reduce further in the coming months as the Shire aggressively pursues a leave management plan, this will not adversely affect service delivery. The long term goal is to bring this liability down to a more manageable level bearing in mind that staff will be naturally hoarding in light of un-certainty in their future roles.
25. Long term borrowings are at \$6.8million. The Shire has no plans to extend its loan portfolio in 2014/2015.

STATUTORY AND LEGAL CONSIDERATIONS

26. The *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* require presentation of a monthly financial activity statement.

POLICY CONSIDERATIONS

27. Nil.

COMMUNITY ENGAGEMENT REQUIREMENTS

28. Nil.

FINANCIAL CONSIDERATIONS

29. Nil.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

30. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 6.8 – To ensure financial sustainability through the implementation of effective financial management, systems and plans.

Strategy 6.8.4 Provide effective financial services to support the Shire's Operations and to meet sustainability planning, reporting and accountability requirements.

SUSTAINABILITY

Social Implications

31. Nil.

Economic Implications

32. Nil.

Environmental Implications

33. Nil.

RISK MANAGEMENT CONSIDERATIONS

34.

Risk	Likelihood	Consequence	Rating	Action / Strategy
Over-spending the budget	Possible	Major	High	<ul style="list-style-type: none"> • Monthly management reports are reviewed by the Shire. • Weekly engineering reports on major projects and maintenance. • Reviewed by the Shire.
Non-compliance with Financial Regulations	Unlikely	Major	Medium	The financial report is scrutinized by the Shire to ensure that all statutory requirements are met.

OFFICER COMMENT

35. The Shire's draft financial statements as at 31 October 2014 demonstrate the Shire has managed its budget and financial resources effectively.

Voting Requirements: Simple Majority

RESOLVED OCM 172/2014

That Council:

1. Receives the draft monthly financial statements for the month to 31 October 2014, which comprises:
 - Statement of Comprehensive Income by Nature and Type.
 - Statement of Comprehensive Income by Program.
 - Statement of Cash Flow.
 - Statement of Financial Position.
 - Statement of Financial Activity (Nature or Type).
 - Statement of Financial Activity (Statutory Reporting Program).
 - Net Current Funding Position, note to financial statement.
 - Statement of Changes in Equity.
 - Reserves – Cash / Investment Backed - note to financial statement.
 - Investment Schedule – note to financial statement.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Dylan O'Connor**

Vote: **CARRIED UNANIMOUSLY (10/0)**

Attachment 1

Draft Statements of Financial Activity for the months to 31 October 2014 incorporating the following:

- Statement of Comprehensive Income by Nature and Type
- Statement of Comprehensive Income by Program
- Statement of Cash Flow
- Statement of Financial Position
- Statement of Financial Activity (Nature or Type)
- Statement of Financial Activity (Statutory Reporting Program)
- Net Current Funding Position, note to financial statement
- Statement of Changes in Equity
- Reserves – Cash / Investment Backed – note to financial statement
- Investment Schedule – note to financial statement

[Click HERE to go direct to the document](#)

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

Cr John Giardina declared an Indirect Financial and an Impartiality Interest and left the chambers at 7.41pm

10.4.2 Memorandum of Understanding with Kalamunda Chamber of Commerce

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Development Services
File Reference	CO-LOS-007
Applicant	N/A
Owner	N/A
Attachment 1	Memorandum of Understanding – Kalamunda Chamber of Commerce

PURPOSE

1. To consider approving the proposed Memorandum of Understanding between the Shire of Kalamunda and the Kalamunda Chamber of Commerce in order to establish a framework of consultation and collaboration between the organisations.

BACKGROUND

2. In February 2014, Councillors and staff of the Shire took part in a workshop with members of the Kalamunda Chamber of Commerce Executive.
3. The outcomes of the workshop provided principles for a sustainable relationship between the two organisations and a basis for entering into a Memorandum of Understanding.
4. The organisations have collaborated in drafting a Memorandum of Understanding designed to improve and cement their working relationship.

DETAILS

5. The Shire has a responsibility to deliver the services and amenities expected by the community and relies on its ratepayers to contribute revenue to fund the provision of those services. A significant revenue contribution is generated from commercial and industrial ratepayers in the Shire.
6. The Chamber is the representative body for commercial and industrial ratepayers and promotes the benefits of a partnership approach with the business community.
7. The Shire recognises the economic benefit the Chamber brings to Kalamunda and the further potential benefits to the community of communicating, consulting and collaborating with the Chamber on pertinent issues.

STATUTORY AND LEGAL CONSIDERATIONS

8. The Memorandum of Understanding is not a legally binding document. It also includes provisions for variation and termination.

POLICY CONSIDERATIONS

9. None

COMMUNITY ENGAGEMENT REQUIREMENTS

10. The Kalamunda Chamber of Commerce executive has been consulted and has collaborated in the drafting of the Memorandum of Understanding (MOU). The Kalamunda Chamber of Commerce Executive is supportive of the content of the final draft but has yet to ratify the Memorandum.

FINANCIAL CONSIDERATIONS

11. None.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

12. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 5.3 - To facilitate increased economic activity within the Shire.

Strategy 5.3.2 - Proactively engage and partner with local and regional businesses to support further economic development.

SUSTAINABILITY

Social Implications

13. A framework for collaboration between the organisations should result in a stronger regional advocacy for the community.

Economic Implications

14. The economic benefit to the community of the collaborative efforts of the two organisations will be likely to outweigh their aggregate individual efforts.

Environmental Implications

15. None

RISK MANAGEMENT CONSIDERATIONS

16.	Risk	Likelihood	Consequence	Rating	Action/Strategy
	The MOU is not executed	Possible	Minor	Medium	Ensure Council is aware that the purpose of the MOU is to ensure a positive working relationship with the peak representational body.

OFFICER COMMENT

17. The signing of a Memorandum of Understanding between the parties is an outcome from the workshop held in February 2014 and would be a major step towards formalising a collaborative working relationship.
18. With the impending local government reform, it is timely to formalise the collaborative working relationship which will assist in strengthening the Chamber's ability to adapt to the changing local government landscape.
19. Formalising the relationship between the parties will also increase the opportunity for collaboration on an operational level across the Shire's business units.

Cr John Giardina declared an Indirect Financial and an Impartiality Interest and left the chambers at 7.41pm.

A Councillor asked what support the Shire currently give to the Chamber, Director Development Services indicated that \$15,000 was given towards the Harvest Festival run by the Chamber. The Councillor asked when the Buy Local Campaign ceased and the Chief Executive Officer indicated it was more than three years ago.

A Councillor foreshadowed an amendment to defer the item in order that a change could be made to the Memorandum of Understanding to ensure that the Chamber did not engage in party politics; a mover and seconder had been found for the substantive motion but they were happy to withdraw.

The motion to defer the Item to the December Ordinary Council Meeting was put.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the execution by the Shire President of the proposed Memorandum of Understanding between the Shire of Kalamunda and the Kalamunda Chamber of Commerce.

Moved: **Cr Bob Emery (withdrawn)**

Seconded: **Cr Margaret Thomas (withdrawn)**

Vote:

Voting Requirements: Simple Majority

RESOLVED OCM 173/2014

That Council:

1. Defer this item to the December Ordinary Council Meeting

Moved: **Cr Margaret Thomas**

Seconded: **Cr Bob Emery**

Vote: **CARRIED UNANIMOUSLY (9/0)**

Attachment 1

MEMORANDUM OF UNDERSTANDING

SHIRE OF KALAMUNDA

and

KALAMUNDA CHAMBER OF COMMERCE



MEMORANDUM OF UNDERSTANDING

1. Parties

Shire of Kalamunda of 2 Railway Road, KALAMUNDA WA 6076 **ABN 60 741 095 678**
'The Shire'

and

Kalamunda Chamber of Commerce Incorporated ABN 31 934 906 155 'The Chamber'

2. Introduction

This Memorandum of Understanding outlines the relationship between the Parties and establishes a framework of consultation and collaboration without limiting the ability of the organisations to work individually and together in other ways for the benefit of the community.

3. Purpose

This document is a Memorandum of Understanding and it is not intended to create, and does not create, binding or legal obligations on the Parties.

4. Term

This Memorandum of Understanding will commence on 1 January 2015 and continue for a term of five (5) years until 31 December 2019, unless terminated under paragraph 9.

5. Background

The Shire has a responsibility to deliver the services and amenities expected by the community and relies on its ratepayers to contribute revenue to fund the provision of those services.

The Shire acknowledges the significance of the contribution of commercial and industrial ratepayers to the area.

The Chamber is a representative body for commercial and industrial ratepayers and the Shire recognises the benefits of a partnership approach with the business community.

The Shire acknowledges the economic benefit the Chamber brings to the community and wishes to communicate, consult and collaborate with the Chamber to achieve maximum benefit for the community.

The Chamber recognises the central role of the Council in planning for Shire of Kalamunda's future and providing for the economic, social and environmental needs of its diverse community.

The Chamber commits to maximise its contribution to the promotion of the Shire of Kalamunda as a prosperous and safe living and working environment, and it acknowledges the proactive work of the Council in this regard.

Memorandum of Understanding - Kalamunda Chamber of Commerce

November 2014

6. Principles and Key Objectives

The purpose of this agreement is the continuous improvement of the relationship and collaboration between the Parties.

The Parties believe, through partnership and this Memorandum of Understanding, the following advantages can be more successfully pursued:

- Consideration by the Parties of the range of economic opportunities and strategies to meet the shared vision of prosperity for the community;
- Consideration of the challenging trading conditions in order to achieve outcomes that meet the needs of the current and future Shire of Kalamunda communities;
- Enhanced return on investment in economic development balanced against desired environmental and social outcomes;
- Opportunities for the Chamber to fulfil its responsibilities in regard to its members and the wider business community;
- Appropriate engagement of the business community through the Chamber in the planning and development process; and
- Opportunities for private sector involvement in the development process through well-structured projects.

7. Outline of General Operating Approach

The Parties will maintain a close working relationship and will work together in collaboration in a manner that:

- Encourages open discussion and honest feedback to achieve common goals;
- Recognises the importance of maintaining professional respect and behaviours through all forms of communication;
- Respects the other's confidentiality;
- Responds to the respective decision-making processes of the Parties;
- Recognises statutory and operating requirements of the Parties;
- Seeks agreement on how the Parties will address issues upon which they differ; and
- Seeks to uphold the outcomes sought from the partnership and Memorandum of Understanding and the commitments made in it.

8. Specific Responsibilities

Specifically, the Parties will:

- Promote, lobby and advocate for the Shire of Kalamunda business community at regional, state and federal levels;
- Consult and engage on issues that relate to the commercial or economic environment in the area including but not limited to strategic planning, tourism and strategies relating to economic development;
- Jointly identify mutually beneficial projects that can be progressed together;
- Ensure that the Presidents of the Parties meet regularly to foster a collaborative working relationship and address any issues that may impede these objectives;
- Arrange bi-annual Executive meetings to discuss the implementation of relevant aspects of the Shire's Strategic Plan, and to work in collaboration to deliver this strategy;

- Use best endeavours to ensure their representatives attend functions and meetings organised by the other party as regularly as possible;
- Work jointly on new tourism initiatives, acknowledging the significance of the area as a tourism destination and the economic benefits this brings to the whole community;
- Sustain an ongoing campaign to encourage the whole community to support local businesses for the economic benefit of the community.

9. Termination and Variation

The Parties may vary this Memorandum of Understanding in writing by mutual exchange of letters signed by the authorised signatory.

This Memorandum of Understanding may be terminated:

- By mutual written agreement of the Parties at any time; or
- By either of the Parties giving twelve months written notice to the other.

10. Signatories

Shire of Kalamunda

Signature _____ Date _____

President - Shire of Kalamunda

Kalamunda Chamber of Commerce

Signature _____ Date _____

President - Kalamunda Chamber of Commerce

Declaration of financial / conflict of interests to be recorded prior to dealing with each item.

10.4.3 Sponsorship Agreement with Kalamunda Chamber of Commerce

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Development Services
File Reference	CO-LOS-007
Applicant	N/A
Owner	N/A
Attachment 1	Sponsorship Agreement – Kalamunda Chamber of Commerce

PURPOSE

1. To consider approving the proposed Sponsorship Agreement between the Shire of Kalamunda and the Kalamunda Chamber of Commerce which identifies and agrees reciprocal financial arrangements of mutual benefit to both parties.

BACKGROUND

2. In February 2014, Councillors and staff of the Shire took part in a workshop with members of the Kalamunda Chamber of Commerce Executive.
3. The outcomes of the workshop provided principles for a sustainable relationship the two organisations and a basis for entering into a Memorandum of Understanding.
4. In August 2014, The Shire received a proposal from the Kalamunda Chamber of Commerce to enter into a Sponsorship Agreement that would be mutually beneficial to both parties.

DETAILS

5. The Shire and the Chamber have negotiated the proposed sponsorship proposal effective for a period of two years commencing on 1 January 2015 and ending on 31 December 2016.
6. The Agreement would require a commitment from each party as follows.
The Shire:
 - Waiving rental charges ordinarily due pursuant the lease dated 1 October 2011 for office space at the Zig Zag Cultural Centre.
 - Waiving fees ordinarily due pursuant to the Shire 'Schedule of Fees and Charges' for the 'trading in thoroughfares and public spaces licence' for the weekly Kalamunda Farmers Market.The Chamber:
 - Awarding the Shire Platinum Sponsorship status of the Kalamunda Chamber of Commerce including a range of specific financial and promotional benefits.

- Awarding the Shire Platinum Sponsorship status of the Kalamunda Farmers Market including a range of specific financial and promotional benefits.

STATUTORY AND LEGAL CONSIDERATIONS

7. The Sponsorship Agreement includes provisions for variation and termination.

POLICY CONSIDERATIONS

8. None.

COMMUNITY ENGAGEMENT REQUIREMENTS

9. The Kalamunda Chamber of Commerce has been consulted and has collaborated in the drafting of the Sponsorship Agreement. The Kalamunda Chamber of Commerce Executive is supportive of the content of the final draft but has yet to formally ratify the Agreement.

FINANCIAL CONSIDERATIONS

10. Rental charges pursuant to the lease dated 1 October 2011 for office space at the Zig Zag Cultural Centre amount to \$3,880 plus CPI per annum.
11. Annual fees pursuant to the Shire 'Schedule of Fees and Charges' for the 'trading in thoroughfares and public spaces licence' for the Kalamunda Farmers Market amounts to \$6,490. The total of revenue waived amounts to \$10,370 per annum for two years.
12. The value attributed to the benefits that the Shire would receive is in excess of the revenue which would be waived under the Agreement.

STRATEGIC COMMUNITY PLAN

Strategic Planning Alignment

13. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 5.3 – To facilitate increased economic activity within the Shire.

Strategy 5.3.2 - Proactively engage and partner with local and regional businesses to support further economic development.

SUSTAINABILITY

Social Implications

14. Collaboration between the organisations should result in a stronger regional advocacy for the community. The proposal brings opportunities to further promote the tourism profile of the region.

Economic Implications

15. The Chamber currently employs about 1.6 FTEs. The Agreement supports the valuable work undertaken by the Chamber on behalf of the business community, which would not be performed by other organisations.

Environmental Implications

16. None

RISK MANAGEMENT CONSIDERATIONS

17.

Risk	Likelihood	Consequence	Rating	Action/Strategy
The sponsorship agreement is not endorsed	Possible	Minor	Medium	Ensure Councillors are aware that the sponsorship agreement is of benefit to the Shire.

OFFICER COMMENT

18. The signing of the Sponsorship Agreement between the parties progresses the Shire of Kalamunda's commitment to a collaborative working relationship.
19. With the impending local government reform, it is timely to formalise a mutually beneficial financial agreement which will strengthen the MOU partnership and support the Chamber in the changing local government landscape.

A Councillor asked what specifically the benefits the Shire would receive, in excess of the revenue which would be waived under the Agreement. The Director Development Services indicated that through the arrangement the Chamber would be offering the Shire Platinum Sponsorship which is valued at \$10,000. In addition to this there are other benefits for the Shire.

A Councillor suggested that in view of the fact that Item 10.4.2 and Item 10.4.3 were both with the Kalamunda Chamber of Commerce and linked to a degree, this item should also be deferred to the December Ordinary Council Meeting.

The mover and seconder withdrew and a new motion was put.

Cr John Giardina returned to Chambers after the vote was taken at 7.56pm.

Voting Requirements: Simple Majority

RECOMMENDATION

That Council:

1. Approves the execution by the Shire President of the proposed Sponsorship Agreement between the Shire of Kalamunda and the Kalamunda Chamber of Commerce.

Moved: **Cr Simon Di Rosso (withdrawn)**

Seconded: **Cr Margaret Thomas (withdrawn)**

Vote:

Voting Requirements: Simple Majority

RESOLVED OCM 174/2014

That Council:

1. Defer this item to the December Ordinary Council Meeting

Moved: **Cr Frank Lindsey**

Seconded: **Cr Justin Whitten**

Vote: **CARRIED UNANIMOUSLY (9/0)**

Attachment 1

SPONSORSHIP AGREEMENT

SHIRE OF KALAMUNDA

and

KALAMUNDA CHAMBER OF COMMERCE



Sponsorship Agreement

1. Parties

Shire of Kalamunda of 2 Railway Road, KALAMUNDA WA 6076 **ABN 60 741 095 678 'The Shire'**

And

Kalamunda Chamber of Commerce Incorporated ABN 31 934 906 155 'The Chamber'

2. Purpose

The purpose of this Agreement is to identify and agree reciprocal financial arrangements between the Chamber and the Shire.

3. Term

This Agreement will commence on 1 January 2015 and continue for a term of 2 years until 31 December 2016, unless otherwise terminated under paragraph 6.

4. Objectives

- To increase the number of visitors to the region
- To act as advocates on behalf of local businesses
- To increase opportunities for local businesses and producers
- To promote an authentic Farmers Market experience
- To encourage residents to shop locally
- To recognise business achievement and excellence

5. Reciprocal Arrangements

The Shire will:

- Waive rental charges ordinarily due pursuant the lease dated 1 October 2011 for office space at the Zig Zag Cultural Centre but not excluding charges for cleaning or utility charges
- Allow access to Wi-Fi connection during normal office hours
- Waive fees ordinarily due pursuant to the Shire 'Schedule of Fees and Charges' for the 'trading in thoroughfares and public spaces licence' for the weekly Kalamunda Farmers Market

The Chamber will:

Award the Shire, Platinum Sponsorship status of both the Chamber and the Kalamunda Farmers Market including but not limited to the following benefits free of charge:

- Complimentary Membership of the Chamber
- Naming rights of the 'New Business of the Year' category at the annual Business Awards and presentation of the award to the winner
- Opportunity to address the attendees at the Business Awards Gala Dinner
- Complimentary table for 10 guests at the annual Business Awards Dinner
- Shire logo displayed prominently on the Chamber and Farmers Market website and on all new promotional material
- Free advertising in new Chamber publications
- When required, a prominent stall for the display of information at the Kalamunda Farmers Market

- Acknowledgement of Platinum Sponsorship status on the Chamber website and in all Chamber media releases
- Hosting and attendance at Chamber business networking functions
- Shire logo prominent on Chamber and Kalamunda Farmers Market e-newsletter

6. Termination and Variation

The Parties may vary this Agreement in writing by mutual exchange of letters signed by the authorised signatory.

This Agreement may be terminated:

- By mutual written agreement of the Parties at any time; or
- By either of the Parties giving six months written notice to the other.

7. Terms of Agreement

The rights of either party under this Agreement shall not be transferrable or assignable in whole or part unless agreed in writing and signed by the Parties.

The terms and condition of this Agreement shall not be disclosed to any third parties.

The Parties shall indemnify each other against any claims arising from any breach of this Agreement.

8. Signatories

Shire of Kalamunda

Signature _____ Date _____

President - Shire of Kalamunda

Kalamunda Chamber of Commerce

Signature _____ Date _____

President - Kalamunda Chamber of Commerce

10.4.4 CONFIDENTIAL REPORT - Chief Executive Officer's Performance Review

Reason for Confidentiality – *Local Government Act 1995: Section 5.23(2) (a), "a matter affecting an employee or employees"*.

Previous Items	N/A
Responsible Officer	Chief Executive Officer
Service Area	Strategy & People Services
File Reference	
Applicant	N/A
Owner	N/A
Confidential Attachment 1	Performance Appraisal Report <u>Reason for Confidentiality</u> – <i>Local Government Act 1995: Section 5.23(2) (a), "a matter affecting an employee or employees"</i> .
Attachment 2	Kalamunda Achieving Corporate Business Plan 2014 – 2018
Confidential Attachment 3	Calculations for Chief Executive Officer Remuneration Increase <u>Reason for Confidentiality</u> – <i>Local Government Act 1995: Section 5.23(2) (a), "a matter affecting an employee or employees"</i> .

This item was circulated under separate cover to all Councillors and was considered at Point 16 on the Agenda to allow discussion.

Voting Requirements: Simple Majority

RESOLVED OCM 177/2014

That Council:

1. Endorses the CEO Performance Review Sub Committee's evaluation report (Confidential Attachment 1) and notes the positive outcomes of the performance review for the 2013/2014 year.

Notes the significant progress made by the CEO towards meeting annual priorities in the quarterly reports received by Council.

Endorses the Priority Actions for CEO (Attachment 2) as the CEO's objectives for 2014/2015.

Endorses the CEO's total package be increased to the next step within the range when the role was initially advertised and an increase of 3% be added on the CEO's total package (Confidential Attachment 3), being:

Total Package: \$268,428
Salary: \$245,139

Moved: **Cr Margaret Thomas**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (10/0)**

11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11.1 Nil.

12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE

12.1 Cr Noreen Townsend – Letter to the Historical Society

Q. Has the letter congratulating the Historical Society for the WWI exhibition been sent to the Historical Society?

A. The Chief Executive Officer responded that the letter had been sent.

12.2 Cr Dylan O'Connor – Truck Complaints in High Wycombe

Q1. There are constantly complaints regarding trucks in High Wycombe, what options are there to improve this situation?

A1. Director of Infrastructure Services noted that that the WA Police can issue infringements to vehicles of a category not authorised to use a certain road, and Main Roads can put up signage.

Q2. If a vehicle is legally allowed to use a certain road are there any devices that can be used to encourage drivers to take a different route?

A2. The Director Infrastructure Services indicated that speed controls can help, however, if a vehicle is legally allowed to travel on a particular road there is no legal way to stop them.

12.3 Cr Geoff Stallard – Meeting on 18 October 2014, Kalamunda Aged Care Today

Q. Has any progress been made since the meeting held by Kalamunda Aged Care on the 18 October 2014?

A. Director Development Services indicated that a follow-up meeting date was being sought to discuss issues.

12.4 Cr Bob Emery – Sparrow Court Public Access Way

Q. Has there been any response from the Police regarding this matter?

A. Director Development Services indicated the Police have given a verbal response, (as noted below) the Shire has lodged an FOI. The Department of Planning have indicated they are not aware of any appeal rights with respect to Public Access Ways closures. Contact will be made again once the FOI has been received.

12.5 Cr John Giardina – Signs on Wilkins Road

Q. Signs have been placed on the Wilkins Road site indicating that the Shire of Kalamunda is going to sell the site. Can these be checked and removed?

A. Noted, the Director Development Services indicated these will be checked and removed.

13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

13.1 Cr Justin Whitten land between Holmes Road and Passiflora Drive

Q. I see this land is advertised as a dog park, I wonder who owns this and, more importantly, who is responsible for maintaining it?

A. The land is owned and maintained by the Shire of Kalamunda.

13.2 Cr Bob Emery – Update Sparrow Court

Q. Could I please have an update on the Sparrow Court Public Access Way?

A. The Shire wrote to the Department of Planning in September 2014, requesting a response to the points 1 and 2 of the OCM resolution on 25 August 2014. The Shire has had follow up discussions with the Department on the request and is expecting a formal response shortly.

In respect to Point 3 of the Council resolution, the Shire has spoken with Forrestfield Police and received informal advice that protocols do not allow for the release of site specific information as sought by Council. The Shire has now pursued an FOI request with Forrestfield Police.

13.3 Cr Justin Whitten – Land between Holmes Road and Passiflora Drive

Q. If the land is owned and maintained by Western Power can we write to them and request they mow it? Also I notice that there is dead grass along the creek line, I would like to know if the poison that has been put down would contaminate the creek?

A. The reserve in question is maintained by the Shire and is mowed twice a year which is the scheduled frequency for a Category 4 reserve and also a requirement for fire mitigation.

The chemical spray for weed control is friendly to frog and invertebrate life and will not contaminate the creek.

14.0 TABLED DOCUMENTS

14.1 The Presiding Member tabled the Annual Report and full Audited Financial Statements from the Kalamunda & Districts Historical Society. These were provided by the Councillor Delegate, Cr Noreen Townsend who commended the Society for the work they undertake and the substantial increase in visitor numbers in the last financial year.

15.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY DECISION

15.1 Nil.

16.0 MEETING CLOSED TO THE PUBLIC

16.1 Meeting Closed to the Public

RESOLVED OCM 175/2014

That the meeting go behind closed doors to discuss Confidential Item 10.4.4, Chief Executive Officer's Performance Review.

Moved: **Cr Noreen Townsend**

Seconded: **Cr Bob Emery**

Vote: **CARRIED UNANIMOUSLY (10/0)**

The meeting closed to the public at 8.00pm, all members of the public gallery and all staff, apart from the Manager of Governance & PR left the Chambers.

16.2 Meeting Reopen to the Public

RESOLVED OCM 176/2014

That the meeting reopen to the public

Moved: **Cr Justin Whitten**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (10/0)**

The meeting reopened to the public at 8.04pm, the Chief Executive Officer returned to Chambers and the Presiding Member read the Resolution to the meeting.

16.3 10.4.4 CONFIDENTIAL REPORT - Chief Executive Officer's Performance Review – Provided under separate cover.

Reason for Confidentiality – *Local Government Act 1995: Section 5.23(2) (a), "a matter affecting an employee or employees".*

Voting Requirements: Simple Majority

RESOLVED OCM 177/2014

That Council:

1. Endorses the CEO Performance Review Sub Committee's evaluation report (Confidential Attachment 1) and notes the positive outcomes of the performance review for the 2013/2014 year.

Notes the significant progress made by the CEO towards meeting annual priorities in the quarterly reports received by Council.

Endorses the Priority Actions for CEO (Attachment 2) as the CEO's objectives for 2014/2015.

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Total Package: \$268,428
Salary: \$245,139

Moved: **Cr Margaret Thomas**

Seconded: **Cr Frank Lindsey**

Vote: **CARRIED UNANIMOUSLY (10/0)**

17.0 CLOSURE

16.1 There being no further business, the Presiding Member declared the meeting closed at 8.09pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: _____
Presiding Member

Dated this _____ day of _____ 2014