

## SHIRE OF KALAMUNDA

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### Index for Minutes of the OCM Monday 17 May 2010

#### **1.0 OFFICIAL OPENING**

1.1 The meeting opened at 7.01 pm.

#### **2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED**

Cr Maureen Robinson (Leave of Absence)  
Clayton Higham  
Kevin O'Connor

#### **3.0 PUBLIC QUESTION TIME**

3.1 Nil

#### **4.0 PETITIONS/DEPUTATIONS**

4.1 Nil.

#### **5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

5.1 Nil.

#### **6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

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6.2 Confirmation of Special Council Meeting Minutes 27 April 2010.

6.3 Confirmation of Special Council Meeting Minutes 3 May 2010.

#### **7.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

7.1 Liquor Licence – Lesmurdie Road Shopping Centre

#### **8.0 MATTERS FOR WHICH MEETING MAY BE CLOSED**

8.1 Nil

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PS Item 32 Nominations for Membership to the Shire of Kalamunda  
Community sustainability Advisory Committee - Cr Everett

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**10.0 REPORT TO COUNCIL****10.1 General Services Committee Report**

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- 10.1.2 GS40. Creditors Accounts Paid during the period 31 March to 15 April 2010
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- 10.2.2 PS26. Lot 1 (100) Wittenoom Road, High Wycombe - Scheme Amendment Initiation (Rezoning from Special Use - Business to Residential R30)
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- 10.2.9 **PS32 Nominations for Membership to the Shire of Kalamunda Community Sustainability Advisory Committee**

**10.3 Chief Executive Officers' Report**

- 10.3.1 Not Applicable

**11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

- 11.1. Proposal by WALGA and the ALGA to seek Commonwealth Constitutional Recognition of Local Government (Cr Lindsey)

**12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE**

- 12.1 Nil.

**13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

- 13.1 Questions relating to General Services Committee Item 46 – Leases and Licenses Terms and Conditions (Cr Frank Lindsey)

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**14.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING  
OR BY DECISION**

14.1 Nil.

**15.0 MEETING CLOSED TO THE PUBLIC**

15.1 Nil.

**16.0 CLOSURE**

16.1 Meeting closed at 7:31 pm.



## Minutes of Ordinary Meeting of Council Held in the Council Chambers 2 Railway Road, Kalamunda Monday 17 May 2010

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### 1.0 OFFICIAL OPENING

- 1.1 The Shire President opened the meeting at 7:01pm and welcomed Councillors, Staff and Members of the Public Gallery.

### 2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

#### 2.1 ATTENDANCE

##### **Councillors**

Donald McKechnie	(SHIRE PRESIDENT) NORTH WARD
Sue Bilich	NORTH WARD
Margaret Thomas	NORTH WARD
Allan Morton	SOUTH WEST WARD
Noreen Townsend	SOUTH WEST WARD
Geoff Stallard	SOUTH EAST WARD
Frank Lindsey	SOUTH EAST WARD
Carol Everett	SOUTH EAST WARD
Martyn Cresswell	NORTH WEST WARD
Dylan O'Connor	NORTH WEST WARD

##### **Members of Staff**

James Trail	CHIEF EXECUTIVE OFFICER
Bob Searle	DIRECTOR OF CORPORATE SERVICES
Darren Jones	A/DIRECTOR OF COMMUNITY DEVELOPMENT
Andrew Fowler-Tutt	A/DIRECTOR OF PLANNING & DEVELOPMENT SERVICES
Mahesh Singh	DIRECTOR OF ENGINEERING SERVICES
Donna McPherson	MINUTE SECRETARY

##### **Members of Public**

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##### **Members of Press**

Kaitlyn Offer – Community Newspaper



**6.3 Confirmation of Special Council Meeting Minutes 3 May 2010**RESOLVED OCM 73/2010

That, the Minutes of the Special Council Meeting of the Shire of Kalamunda held in the Council Chambers on 3 May 2010 be confirmed.

Moved: Cr Frank Lindsey

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)****7.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION****7.1 Application Liquor License – Lesmurdie Road Shopping Centre**

An appeal by the Applicant had been lodged against the resolution of Council to reject the application. A hearing will be held on this matter on Friday 21 May 2010. Staff will not be attending this hearing if Councillors wished to represent Council at this hearing could they indicate their intention to do so with the CEO's office.

**8.0 MATTERS FOR WHICH MEETING MAY BE CLOSED**

8.1 Nil.

**9.0 DISCLOSURE OF INTERESTS****Disclosure of Financial and Proximity Interests**

- (a) Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 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. (Sections 5.70 and 5.71 of the Local Government Act 1995)

9.1 Nil.

**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.

**9.2 PS Item 32 Nominations for Membership to the Shire of Kalamunda Community sustainability Advisory Committee**

Cr Everett declared an interest affecting impartiality as she sits on this Committee.

## 10.0 REPORTS TO COUNCIL

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

### 10.1 General Services Committee Report

#### 10.1.1 Adoption of Recommendations of the General Services Committee of 3 May 2010

RESOLVED OCM 74/2010

That the recommendations contained in the General Services Committee Report of 3 May 2010 be adopted.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

#### 10.1.2 GS40. Creditors Accounts Paid during the period 31 March to 15 April 2010

EN BLOC RESOLUTION OCM 74/2010

That the list of Creditors' paid during the period 31 March to 15 April 2010 attached (*GSC Item 40 Attachment 1*) be received by Council in accordance with the requirements of Regulation 12 of the Local Government (Financial Management) Regulations 1996.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

#### 10.1.3 GS41. Financial Activity Statements for the Period 31 March 2010

EN BLOC RESOLUTION OCM 74/2010

That the Financial Activity Statement reports for the period ending 31 March 2010 (*GSC Item 41 Attachment 1*) be received.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

#### 10.1.4 GS42 Debtors and Creditors Report

EN BLOC RESOLUTION OCM 74/2010

That the outstanding debtors and creditors report as at 31 March 2010 (*GSC Item 42 Attachment 1*) be received.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

**10.1.5 GS43 Rates Debtors Report**EN BLOC RESOLUTION OCM 74/2010

That the rates debtors report as at 31 March 2010 (*GSC Item 43 Attachment 1*) be received.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)****10.1.6 GS44 Summary of Council Meetings and Committee Meetings June 2010 to May 2011**EN BLOC RESOLUTION OCM 74/2010

That the Schedule of Council and Committee meetings for 2010/2011 as detailed below be endorsed. Meetings to commence at 6.30 pm.

<b>June</b>	<b>2010</b>	
Monday	7.....	General Services Committee
Monday	14.....	Planning Services Committee
Monday	21.....	Ordinary Council Meeting
<b>July</b>		
Monday	5.....	General Services Committee
Monday	12.....	Planning Services Committee
Monday	19.....	Ordinary Council Meeting
<b>August</b>		
Monday	2.....	General Services Committee
Monday	9.....	Planning Services Committee
Monday	16.....	Ordinary Council Meeting
<b>September</b>		
Monday	6.....	General Services Committee
Monday	13.....	Planning Services Committee
Monday	20.....	Ordinary Council Meeting
<b>October</b>		
Monday	4.....	General Services Committee
Monday	11.....	Planning Services Committee
Monday	18.....	Ordinary Council Meeting
<b>November</b>		
Monday	1.....	General Services Committee
Monday	8.....	Planning Services Committee
Monday	15.....	Ordinary Council Meeting
<b>December</b>		
Monday	6.....	General Services Committee
Monday	13.....	Planning Services Committee
Monday	20.....	Ordinary Council Meeting
<b>February</b>	<b>2011</b>	
Monday	7.....	General Services Committee
Monday	14.....	Planning Services Committee
Monday	21.....	Ordinary Council Meeting

**March**

Tuesday	8 .....	General Services Committee
Monday	14 .....	Planning Services Committee
Monday	21 .....	Ordinary Council Meeting

**April**

Monday	4 .....	General Services Committee
Monday	11 .....	Planning Services Committee
Monday	18 .....	Ordinary Council Meeting

**May**

Monday	2 .....	General Services Committee
Monday	9 .....	Planning Services Committee
Monday	16 .....	Ordinary Council Meeting

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)****10.1.7 GS45 Rates Exemption – 159 Canning Road Kalamunda**EN BLOC RESOLUTION OCM 74/2010

That Haladhar Holdings Pty Ltd as registered owners of 159 Canning Road, Kalamunda be granted an exemption from rates, commencing 1 July 2010.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)****10.1.8 GS46 Proposed Amendments to Policy FAC12 – Lease and Licence Terms & Conditions of Council Owned Controlled Properties**EN BLOC RESOLUTION OCM 74/2010

That this item be deferred to the June 2010 General Services Meeting.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)****10.1.9 GS47 Kalamunda Performing Arts Centre Appraisal Report Outcomes**EN BLOC RESOLUTION OCM 74/2010

That Council accepts and receives the Kalamunda Performing Arts Centre Appraisal Report (*GSC Item 47 Attachment 1.*).

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

**10.1.10 GS48 Proposed Active Reserves Sports Lighting Policy**EN BLOC RESOLUTION OCM 74/2010

That Council adopts the Proposed Active Reserves Sports Lighting Policy as per *(GS Item 48, Attachment 1.)* as per attachment.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

**10.1.11 GS49 Draft Hartfield Park Masterplan**EN BLOC RESOLUTION OCM 74/2010

That Council:

1. Receives the Draft Hartfield Park Masterplan as *(GS Item 49, Attachment 1.)* and;
2. Advertises the attached Draft Hartfield Park Masterplan for a period of 42 days.
3. A Community Workshop be held as part of the advertising process.
4. That all affected groups and stakeholders be provided with a copy of the Draft Hartfield Park Masterplan.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

**10.1.12 GS11.1 Removal of Graffiti from Council Property**EN BLOC RESOLUTION OCM 74/2010

That the Motion "Removal of Graffiti from Council Property" be deferred to the June General Services Meeting.

Moved: Cr Martyn Cresswell

Seconded: Cr Noreen Townsend

**CARRIED UNANIMOUSLY (10/0)**

**10.2 Planning Services Committee Report****Withdrawn Items from Planning Services Report**

PS Item 28 withdraw by Cr Frank Lindsey

PS Item 31 Absolute Majority Required

PS Item 32 Absolute Majority Required

**10.2.1 Adoption of Body of Planning Services Report**RESOLVED OCM 75/2010

1. That the Recommendations contained in the Planning Services Committee Report of 10 May 2010, excluding withdrawn items numbers PS28, PS31 and PS32 be adopted.

Moved: Cr Margaret Thomas

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)**

**10.2.2 PS26. Lot 1 (100) Wittenoom Road, High Wycombe - Scheme Amendment Initiation (Rezoning from Special Use - Business to Residential R30)**

EN BLOC RESOLUTION OCM 75/2010

That Council in pursuance of Part 5 of the *Planning and Development Act 2005*, amends Local Planning Scheme No. 3 by:

1. Rezoning the north-west portion of Lot 1 (100) Wittenoom Road, High Wycombe from Special Use (Business) to Residential R30.

In accordance with the Scheme Amendment Map.

Subject to amendment documents and the required administration fee being submitted, the documents being adopted by Council and the Amendment being formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, without reference to the Western Australian Planning Commission.

Moved: Cr Margaret Thomas

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)**

**10.2.3 PS 27. Lot 23 (131) Milner Road and 551 (371) Dundas Road, High Wycombe – Scheme Amendment No. 22 – Final Adoption**

EN BLOC RESOLUTION OCM 75/2010

That Council:

- a) Notes the submission received in respect to Amendment No. 22 to Local Planning Scheme No. 3.
- b) Adopts Scheme Amendment No. 22 relating to Lots 23 (131) Milner Road & 551 (371) Dundas Road, High Wycombe.
- c) Duly executes the Amendment documents and forwards them with submissions received to the Minister for Planning requesting that final approval be granted.

Moved: Cr Margaret Thomas

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)**

**10.2.4 PS 29 Lot 244 (53) Chisholm Crescent, Kewdale - Warehouse**

EN BLOC RESOLUTION OCM 75/2010

That Council approves the application for a warehouse on Lot 244 (53) Chisholm Crescent, Kewdale, dated 22 March 2010, subject to the following conditions:

*The provision and maintenance of a total of 13 car spaces including a minimum of one (1) disabled bay.*

*No storage or carrying out of industrial activities is permitted in open yard areas visible from any adjoining street or within the proposed covered area.*

*No loading or unloading of vehicles is to occur that interferes with the parking of vehicles in the car park by visitors and employees. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.*

Moved: Cr Margaret Thomas

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)**

**10.2.5 PS 30 Annual Caravan Parks Licence Renewals**

EN BLOC RESOLUTION OCM 75/2010

That Council approves the renewal of caravan park licences, subject to the receipt of the required licence fees, for:

- a. Discovery Holiday Park 186 Hale Road Forrestfield
- b. Forrestfield Caravan N Park Home Village 351 Hawtin Road Forrestfield
- c. Springvale Village 161 Maida Vale Road High Wycombe
- d. Hillview Lifestyle Village 597 Kalamunda Road High Wycombe
- e. Advent Park 345 Kalamunda Road Maida Vale

Moved: Cr Margaret Thomas

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)**

**10.2.6 PS 33 Quarterly Progress Report**

EN BLOC RESOLUTION OCM 75/2010

That the Quarterly Progress Report for January – March 2010 be received.

Moved: Cr Margaret Thomas

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)**

**10.2.7 PS 28. Local Planning Scheme No. 3 Amendment No. 20 - Provision Relating to Unkempt Land - Final Adoption****COMMITTEE RECOMMENDATION TO COUNCIL**

That Council:

- a) Adopts Scheme Amendment No. 20 without modification, to insert the following provision into the Scheme:

*"5.23 Unkempt Land*

- i) For any land within the district, where in the opinion of the Council, any refuse, rubbish, derelict vehicles or disused material is likely to adversely affect the amenity of an area, or the health, comfort or convenience of the inhabitants thereof, the Council may cause a notice to be served on the owner or occupier of such land requiring within a specified time the removal from the land of such refuse, rubbish, derelict vehicles or disused materials.*
- ii) Every owner or occupier of land to whom a notice is served shall comply with it within the time period specified; and*
- iii) Any person who fails to comply with any notice served commits an offence and is liable to action under clause 11.4 of the Scheme."*

- b) Duly executes the Amendment documents and forwards them to the Minister for Planning requesting that final approval be granted.

At the Planning Services Committee Councillor Frank Lindsey requested clarification on definitions of the terms "derelict vehicles" and "disused materials". This clarification has yet to be provided by the Shire's Lawyers. Due to this it was moved that the item be deferred until the Planning Services Committee of 14 June 2010.

**RESOLVED OCM 76/2010**

That Council defer Item PS 28 Local Planning Scheme No. 3 Amendment No. 20 - Provision Relating to Unkempt Land - Final Adoption until the Planning Services Committee of 14 June 2010.

Moved: Cr Frank Lindsey

Seconded: Cr Martyn Cresswell

**CARRIED UNANIMOUSLY (10/0)**

**10.2.8 PS 31 Shire of Kalamunda Health Local Laws 2001 Review****COMMITTEE RECOMMENDATION TO COUNCIL**

That Officers amend the draft Control of Animals and Nuisance Local Law 2010 for the Ordinary Council Meeting of 17 May 2010 and provided advice of any consequential impacts on the intent of the Local Law.

A motion was put to defer the Item to allow advice on the amendments to the Local Law to be sought.

**RESOLVED OCM 77/2010**

That the item be deferred to the July Planning Services Committee meeting subject to further advice being obtain and a Councillor forum being held.

Moved: Cr Margaret Thomas

Seconded: Cr Sue Bilich

**CARRIED UNANIMOUSLY (10/0)**

**10.2.9 PS 32 Nominations for Membership to the Shire of Kalamunda Community Sustainability Advisory Committee**

*Cr Everett declared an interest affecting impartiality as she sits on this Committee*

**RESOLVED OCM 78/2010**

That Council endorses the following list of nominees as members of the Community Sustainability Advisory Committee.

Mr Steve Gates  
Mr Wes Bancroft  
Mr Barry Goldspink  
Mrs Aileen Reid  
Mrs Sharon Arasi  
Mr Annie Mitchell  
Mrs May Carter  
Mr Max Jones  
Mr Brendan McKenzie  
Mrs Elise Clegg

Moved: Cr Allan Morton

Seconded: Cr Margaret Thomas

**CARRIED UNANIMOUSLY/ABSOLUTE MAJORITY (10/0)**

**10.3 Chief Executive Officers' Report (Refer Purple Pages)**

10.3.1 Not Applicable

**11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**  
**11.1 Proposal by WALGA and the ALGA to seek Commonwealth Constitutional Recognition of Local Government (Cr Lindsey)**

RESOLVED OCM 78/2010

This notice of motion was originally listed for consideration at the Ordinary Council Meeting of 19 April 2010. At the request of the mover it was deferred for consideration at the Ordinary Council Meeting of 17 May 2010.

The Chairman read out the motion:

Cr Lindsey indicated that he wished to make some minor changes involving the rearranging of the third and fourth dot point from Part 1 of the proposed motion.

Cr Lindsey provided an in-depth commentary and analysis of the issues he considered pertinent to the question of recognition of local government in the Constitution of the Commonwealth. In particular issues arising from the Pape Case that went to the High Court in 2009.

**MOTION:**

1. That this Council, recognising the:

- Constitutional recognition already afforded local government under Sections 2, 52, 53 and 57 of WA's Constitution Act 1889;
- The undesirability of having overlapping state and commonwealth constitutional jurisdiction of local government; and
- The implied constitutional recognition of local government afforded by Sections 106, 107 and 108 of the Commonwealth of Australia Constitution Act 1900.
- The existing ability of the Commonwealth Government to provide funding to local government by way of tied grants via the states; holds that the proposal by WALGA and the ALGA to seek Commonwealth Constitutional recognition for local government is both unnecessary and undesirable.

2. That Council convey its views on the proposed Commonwealth Constitutional recognition of local government to the WA Minister for Local Government; the Prime Minister; Leader of Federal Opposition; President of WALGA and the President of the ALGA.

Moved: Cr Lindsey

Seconded: Cr Stallard

**Vote: For**

Cr Everett

Cr Lindsey

Cr Stallard

Cr Morton

Cr Townsend

Cr Cresswell

Cr O'Connor

Cr Thomas

Cr McKechnie

**Against**

Cr Bilich

**CARRIED (9/1)**



**13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

**13.1 Questions relating to General Services Committee Item 46 – Leases and Licenses Terms and Conditions (Cr Frank Lindsey)**

1. How many License Holders are there in Group 2, 3 and 4 respectively
2. What is the annual income foregone to the Shire for the subsidization of rates to License Holders in Group 2.
3. The Annual Income foregone to the Shire for the subsidization of rates, the ESL, rental and building insurance respectively to the License Holders in Group 3.
4. The Annual Income foregone to the Shire for the subsidization of rates, the ESL, rental and building insurance respectively to the License Holders in Group 4.

Answers to these questions will be provided at the Ordinary Council Meeting to be held on 21 June 2010.

**14.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION**

14.1 Nil.

**15.0 MEETING CLOSED TO THE PUBLIC**

15.1 Nil.

**16.0 CLOSURE**

16.1 There being no further business the Chairman declared the meeting closed at 7:31 pm.

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

Signed.....Chairman

Dated this .....day of .....2010

